

## The Penal Code, 1860 (*Contd.*) [Repealed]

(Penal Code, 1860 - Section 268 to 511)

---

[Repealed by *Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023)*, S. 358  
(1), w.e.f. 1-7-2024]

### CONTENTS

Section 1 to 267

#### CHAPTER XIV

#### OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

268. Public nuisance

269. Negligent act likely to spread infection of disease dangerous  
to life

270. Malignant act likely to spread infection of disease dangerous  
to life

271. Disobedience to quarantine rule

272. Adulteration of food or drink intended for sale

273. Sale of noxious food or drink

274. Adulteration of drugs

275. Sale of adulterated drugs

276. Sale of drug as a different drug or preparation

277. Fouling water of public spring or reservoir

278. Making atmosphere noxious to health

279. Rash driving or riding on a public way

280. Rash navigation of vessel

281. Exhibition of false light, mark or buoy

282. Conveying person by water for hire in unsafe or overloaded

vessel

283. Danger or obstruction in public way or line of navigation

284. Negligent conduct with respect to poisonous substance

285. Negligent conduct with respect to fire or combustible matter

286. Negligent conduct with respect to explosive substance

287. Negligent conduct with respect to machinery

288. Negligent conduct with respect to pulling down or repairing buildings

289. Negligent conduct with respect to animal

290. Punishment for public nuisance in cases not otherwise provided for

291. Continuance of nuisance after injunction to discontinue

292. Sale, etc., of obscene books, etc

293. Sale, etc., of obscene objects to young person

294. Obscene acts and songs

294-A. Keeping lottery office

#### CHAPTER XV

#### OF OFFENCES RELATING TO RELIGION

295. Injuring or defiling place of worship with intent to insult the religion of any class

295-A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs

296. Disturbing religious assembly

297. Trespassing on burial places, etc

298. Uttering words, etc., with deliberate intent to wound religious feelings

#### CHAPTER XVI

#### OF OFFENCES AFFECTING THE HUMAN BODY

*Of offences affecting life*

299. Culpable homicide

300. Murder

301. Culpable homicide by causing death of person other than person whose death was intended

302. Punishment for murder

303. Punishment for murder by life-convict

304. Punishment for culpable homicide not amounting to murder

304-A. Causing death by negligence

304-B. Dowry death

305. Abetment of suicide of child or insane person

306. Abetment of suicide

307. Attempt to murder

308. Attempt to commit culpable homicide

309. Attempt to commit suicide

310. Thug

311. Punishment

*Of the causing of miscarriage, of injuries to unborn children, of the exposure of infants, and of the concealment of births*

312. Causing miscarriage

313. Causing miscarriage without woman's consent

314. Death caused by act done with intent to cause miscarriage

315. Act done with intent to prevent child being born alive or to cause it to die after birth

316. Causing death of quick unborn child by act amounting to culpable homicide

317. Exposure and abandonment of child under twelve years, by parent or person having care of it

318. Concealment of birth by secret disposal of dead body

*Of hurt*

319. Hurt

320. Grievous hurt

321. Voluntarily causing hurt

322. Voluntarily causing grievous hurt

323. Punishment for voluntarily causing hurt

324. Voluntarily causing hurt by dangerous weapons or means

325. Punishment for voluntarily causing grievous hurt

326. Voluntarily causing grievous hurt by dangerous weapons or means

326-A. Voluntarily causing grievous hurt by use of acid, etc

326-B. Voluntarily throwing or attempting to throw acid

327. Voluntarily causing hurt to extort property, or to constrain to an illegal act

328. Causing hurt by means of poison, etc., with intent to commit an offence

329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act

330. Voluntarily causing hurt to extort confession, or to compel restoration of property

331. Voluntarily causing grievous hurt to extort confession, or to compel restoration of property

332. Voluntarily causing hurt to deter public servant from his duty

333. Voluntarily causing grievous hurt to deter public servant from his duty

334. Voluntarily causing hurt on provocation

335. Voluntarily causing grievous hurt on provocation

336. Act endangering life or personal safety of others

337. Causing hurt by act endangering life or personal safety of others

338. Causing grievous hurt by act endangering life or personal safety of others

*Of wrongful restraint and wrongful confinement*

339. Wrongful restraint

340. Wrongful confinement

341. Punishment for wrongful restraint

342. Punishment for wrongful confinement

343. Wrongful confinement for three or more days

344. Wrongful confinement for ten or more days

345. Wrongful confinement of person for whose liberation writ has been issued

346. Wrongful confinement in secret

347. Wrongful confinement to extort property, or constrain to illegal act

348. Wrongful confinement to extort confession, or compel restoration of property

*Of criminal force and assault*

349. Force

350. Criminal force

351. Assault

352. Punishment for assault or criminal force otherwise than on grave provocation

353. Assault or criminal force to deter public servant from discharge of his duty

354. Assault or criminal force to woman with intent to outrage her modesty

354-A. Sexual harassment and punishment for sexual harassment

354-B. Assault or use of criminal force to woman with intent to

disrobe

354-C. Voyeurism

354-D. Stalking

355. Assault or criminal force with intent to dishonour person, otherwise than on grave provocation

356. Assault or criminal force in attempt to commit theft of property carried by a person

357. Assault or criminal force in attempt wrongfully to confine a person

358. Assault or criminal force on grave provocation

*Of kidnapping, abduction, slavery and forced labour*

359. Kidnapping

360. Kidnapping from India

361. Kidnapping from lawful guardianship

362. Abduction

363. Punishment for kidnapping

363-A. Kidnapping or maiming a minor for purposes of begging

364. Kidnapping or abducting in order to murder

364-A. Kidnapping for ransom, etc

365. Kidnapping or abducting with intent secretly and wrongfully to confine person

366. Kidnapping, abducting or inducing woman to compel her marriage, etc

366-A. Procurement of minor girl

366-B. Importation of girl from foreign country

367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc

368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person

369. Kidnapping or abducting child under ten years with intent to steal from its person

370. Trafficking of person

370-A. Exploitation of a trafficked person

371. Habitual dealing in slaves

372. Selling minor for purposes of prostitution, etc

373. Buying minor for purposes of prostitution, etc

374. Unlawful compulsory labour

#### *Sexual Offences*

375. Rape

376. Punishment for rape

376-A. Punishment for causing death or resulting in persistent vegetative state of victim

376-AB. Punishment for rape on woman under twelve years of age

376-B. Sexual intercourse by husband upon his wife during separation

376-C. Sexual intercourse by a person in authority

376-D. Gang rape

376-DA. Punishment for gang rape on woman under sixteen years of age

376-DB. Punishment for gang rape on woman under twelve years of age

376-E. Punishment for repeat offenders

#### *Of unnatural offences*

377. Unnatural offences

### CHAPTER XVII

### OF OFFENCES AGAINST PROPERTY

#### *Of theft*

378. Theft

379. Punishment for theft

380. Theft in dwelling house, etc

381. Theft by clerk or servant of property in possession of master

382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft

*Of extortion*

383. Extortion

384. Punishment for extortion

385. Putting person in fear of injury in order to commit extortion

386. Extortion by putting a person in fear of death or grievous hurt

387. Putting person in fear of death or of grievous hurt, in order to commit extortion

388. Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc

389. Putting person in fear of accusation of offence, in order to commit extortion

*Of robbery and dacoity*

390. Robbery

391. Dacoity

392. Punishment for robbery

393. Attempt to commit robbery

394. Voluntarily causing hurt in committing robbery

395. Punishment for dacoity

396. Dacoity with murder

397. Robbery or dacoity, with attempt to cause death or grievous hurt

398. Attempt to commit robbery or dacoity when armed with



deadly weapon

399. Making preparation to commit dacoity

400. Punishment for belonging to gang of dacoits

401. Punishment for belonging to gang of thieves

402. Assembling for purpose of committing dacoity

*Of criminal misappropriation of property*

403. Dishonest misappropriation of property

404. Dishonest misappropriation of property possessed by deceased person at the time of his death

*Of criminal breach of trust*

405. Criminal breach of trust

406. Punishment for criminal breach of trust

407. Criminal breach of trust by carrier, etc

408. Criminal breach of trust by clerk or servant

409. Criminal breach of trust by public servant, or by banker, merchant or agent

*Of the receiving of stolen property*

410. Stolen property

411. Dishonestly receiving stolen property

412. Dishonestly receiving property stolen in the commission of a dacoity

413. Habitually dealing in stolen property

414. Assisting in concealment of stolen property

*Of cheating*

415. Cheating

416. Cheating by personation

417. Punishment for cheating

418. Cheating with knowledge that wrongful loss may ensue to

person whose interest offender is bound to protect

419. Punishment for cheating by personation

420. Cheating and dishonestly inducing delivery of property

*Of fraudulent deeds and dispositions of property*

421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors

422. Dishonestly or fraudulently preventing debt being available for creditors

423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration

424. Dishonest or fraudulent removal or concealment of property

*Of mischief*

425. Mischief

426. Punishment for mischief

427. Mischief causing damage to the amount of fifty rupees

428. Mischief by killing or maiming animal of the value of ten rupees

429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees

430. Mischief by injury to works of irrigation or by wrongfully diverting water

431. Mischief by injury to public road, bridge, river or channel

432. Mischief by causing inundation or obstruction to public drainage attended with damage

433. Mischief by destroying, moving or rendering less useful a lighthouse or sea-mark

434. Mischief by destroying or moving, etc., a landmark fixed by public authority

435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees

436. Mischief by fire or explosive substance with intent to destroy house, etc

437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden

438. Punishment for the mischief described in Section 437 committed by fire or explosive substance

439. Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc

440. Mischief committed after preparation made for causing death or hurt

*Of criminal trespass*

441. Criminal trespass

442. House-trespass

443. Lurking house-trespass

444. Lurking house-trespass by night

445. House-breaking

446. House-breaking by night

447. Punishment for criminal trespass

448. Punishment for house-trespass

449. House-trespass in order to commit offence punishable with death

450. House-trespass in order to commit offence punishable with imprisonment for life

451. House-trespass in order to commit offence punishable with imprisonment

452. House-trespass after preparation for hurt, assault or wrongful restraint

453. Punishment for lurking house-trespass or house-breaking

454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment

455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint

456. Punishment for lurking house-trespass or house-breaking by night

457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment

458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint

459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking

460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them

461. Dishonestly breaking open receptacle containing property

462. Punishment for same offence when committed by person entrusted with custody

#### CHAPTER XVIII

#### OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

463. Forgery

464. Making a false document

465. Punishment for forgery

466. Forgery of record of Court or of public register, etc

467. Forgery of valuable security, will, etc

468. Forgery for purpose of cheating

469. Forgery for purpose of harming reputation

470. Forged document or electronic record

471. Using as genuine a forged document or electronic record

472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under Section 467

473. Making or possessing counterfeit seal, etc., with intent to

commit forgery punishable otherwise

474. Having possession of document or electronic record described in Section 466 or 467, knowing it to be forged and intending to use it as genuine

475. Counterfeiting device or mark used for authenticating documents described in Section 467, or possessing counterfeit marked material

476. Counterfeiting device or mark used for authenticating documents other than those described in Section 467, or possessing counterfeit marked material

477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security

477-A. Falsification of accounts

*Of property and other marks*

478. Trade mark

479. Property mark

480. Using a false trade mark

481. Using a false property mark

482. Punishment for using a false property mark

483. Counterfeiting a property mark used by another

484. Counterfeiting a mark used by a public servant

485. Making or possession of any instrument for counterfeiting a property mark

486. Selling goods marked with a counterfeit property mark

487. Making a false mark upon any receptacle containing goods

488. Punishment for making use of any such false mark

489. Tampering with property mark with intent to cause injury

*Of currency-notes and bank-notes*

489-A. Counterfeiting currency-notes or bank-notes

489-B. Using as genuine, forged or counterfeit currency-notes or

bank-notes

489-C. Possession of forged or counterfeit currency-notes or bank-notes

489-D. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes

489-E. Making or using documents resembling currency-notes or bank-notes

## CHAPTER XIX

### OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. Breach of contract of service during voyage or journey

491. Breach of contract to attend on and supply wants of helpless person

492. Breach of contract to serve at distant place to which servant is conveyed at master's expense

## CHAPTER XX

### OF OFFENCES RELATING TO MARRIAGE

493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage

494. Marrying again during lifetime of husband or wife

495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted

496. Marriage ceremony fraudulently gone through without lawful marriage

497. Adultery

498. Enticing or taking away or detaining with criminal intent a married woman

## CHAPTER XX-A

### OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

498-A. Husband or relative of husband of a woman subjecting her to cruelty

CHAPTER XXI  
OF DEFAMATION

- 499. Defamation
- 500. Punishment for defamation
- 501. Printing or engraving matter known to be defamatory
- 502. Sale of printed or engraved substance containing defamatory matter

CHAPTER XXII  
OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

- 503. Criminal intimidation
- 504. Intentional insult with intent to provoke breach of the peace
- 505. Statements conducing to public mischief
- 506. Punishment for criminal intimidation
- 507. Criminal intimidation by an anonymous communication
- 508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure
- 509. Word, gesture or act intended to insult the modesty of a woman
- 510. Misconduct in public by a drunken person

CHAPTER XXIII  
OF ATTEMPTS TO COMMIT OFFENCES

- 511. Punishment for attempting to commit offences punishable with im-prisonment for life or other imprisonment

—————  
**Chapter XIV**  
**OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY,**  
**CONVENIENCE, DECENCY AND MORALS**

- 268. Public nuisance.**—A person is guilty of a public nuisance who does any act or is guilty of an illegal omission, which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must

necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

**269. Negligent act likely to spread infection of disease dangerous to life.**—Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**270. Malignant act likely to spread infection of disease dangerous to life.**—Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**271. Disobedience to quarantine rule.**—Whoever knowingly disobeys any rule made and promulgated [316](#) [by the [317](#) [\* \* \*] Government [318](#) [\* \* \*]] for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**272. Adulteration of food or drink intended for sale.**—Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, 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.

#### STATE AMENDMENTS

Orissa.—In its application to the State of Orissa, in Sections 272, 273, 274, 275 and 276, for the words “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”, the following shall be *substituted*, namely:—

“shall be punished with imprisonment for life and shall also be liable to fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life.” [*Vide* Orissa Act 3 of 1999, S. 2.]



Uttar Pradesh.—In its application to the State of Uttar Pradesh, in Sections 272, 273, 274, 275 and 276 for the words “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”, the following shall be *substituted*, namely—

“shall be punished with imprisonment for life and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life.” [Vide U.P. Act 47 of 1975.]

West Bengal.—In its application to the State of West Bengal, in Sections 272, 273, 274, 275 and 276, for the words “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”, the words “for life with or without fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life”, shall be *substituted*. [Vide West Bengal Act 42 of 1973.]

**273. Sale of noxious food or drink.**—Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, 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.

See State Amendments under Section 272.

**274. Adulteration of drugs.**—Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, 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.

See State Amendments under Section 272.

**275. Sale of adulterated drugs.**—Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, 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.

See State Amendments under Section 272.

**276. Sale of drug as a different drug or preparation.**—Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, 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.

See State Amendments under Section 272.

**277. Fouling water of public spring or reservoir.**—Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**278. Making atmosphere noxious to health.**—Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

**279. Rash driving or riding on a public way.**—Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, 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.

**280. Rash navigation of vessel.**—Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, 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.

**281. Exhibition of false light, mark or buoy.**—Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**282. Conveying person by water for hire in unsafe or overloaded vessel.**—Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person,

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.

► **Liability of owners/partners/master.**—When the launch was capsized by reason of the stampede, it cannot be said that it was due to negligence of the owners or the master. Therefore, the conviction under Section 282 cannot be sustained in such case, *V.R. Bhate v. State of Maharashtra*, (1970) 3 SCC 13 : 1970 SCC (Cri) 363.

**283. Danger or obstruction in public way or line of navigation.**—Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.

**284. Negligent conduct with respect to poisonous substance.**—Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person,

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance,

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.

**285. Negligent conduct with respect to fire or combustible matter.**—Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

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.

**286. Negligent conduct with respect to explosive substance.**—Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

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.

**287. Negligent conduct with respect to machinery.**—Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

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.

**288. Negligent conduct with respect to pulling down or repairing buildings.**—Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, 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.

**289. Negligent conduct with respect to animal.**—Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, 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.

#### STATE AMENDMENTS

Himachal Pradesh.—In its application to the State of Himachal Pradesh, the following section shall be *added*, namely:—

**"289-A. Feeding of Monkeys in public place.**—Whoever throws eatables in public place, other than those notified by the State Government in the Official Gazette, and thereby entice monkeys to assemble at such place for taking eatables which result in causing danger to human life or to be likely to cause injury or annoyance to the public or to the people in general or to cause hindrance in smooth running of vehicular traffic, shall be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to one thousand rupees or with both." [Vide H.P. Act 15 of 2006, S. 2, w.e.f. 29-6-2006]

**290. Punishment for public nuisance in cases not otherwise provided for.**—Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

**291. Continuance of nuisance after injunction to discontinue.—**

Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

<sup>319</sup>[292. Sale, etc., of obscene books, etc.—<sup>320</sup>[(1) For the purposes of sub-section (2), book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt person who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.]

<sup>321</sup>[(2)] Whoever—

- (a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or
- (b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or
- (c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or
- (e) offers or attempts to do any act which is an offence under this section,

shall be punished <sup>322</sup>[on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with

fine which may extend to five thousand rupees].

<sup>323</sup>[*Exception*.—This section does not extend to—

- (a) any book, pamphlet, paper, writing, drawing, painting, representation or figure—
  - (i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern, or
  - (ii) which is kept or used bona fide for religious purposes;
- (b) any representation sculptured, engraved, painted or otherwise represented on or in—
  - (i) any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), or
  - (ii) any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.]]

#### STATE AMENDMENTS

Orissa.—*Amended by Orissa Act 13 of 1962* [same as that of Tamil Nadu].

Tamil Nadu.—In its application to the whole of the State of Tamil Nadu, in Section 292 the words “shall be punished with imprisonment of either description for a term which may extend to three months or with fine or with both” *substitute* the following, namely,—

“shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

Provided that for a second or any subsequent offence under this section, he shall be punished with imprisonment of either description for a term which shall not be less than six months and not more than two years and with fine.” [Vide Tamil Nadu Act 25 of 1960.]

#### SECTION 292-A

Orissa.—Amended by Orissa Act 13 of 1962 [same as that of Tamil Nadu as originally inserted before amendment by Tamil Nadu Act 13 of 1982].

Tamil Nadu.—In its application to the whole of the State of Tamil Nadu, after Section 292 insert the following new section, namely,—

“292-A.—*Printing, etc. of grossly indecent or scurrilous matter or matter intended for blackmail*.—Whoever,—

- (a) prints or causes to be printed in any newspaper, periodical or circular, or exhibits or causes to be exhibited, to public view or distributes or causes to be distributed or in any manner puts into circulation any picture or any printed or written document which

- is grossly indecent, or is scurrilous or intended for blackmail, or
- (b) sells or lets for hire, or for purposes of sale or hire makes, produces or has in his possession, any picture or any printed or written document which is grossly indecent or is scurrilous or intended for blackmail, or
  - (c) conveys any picture or any printed or written document which is grossly indecent or is scurrilous or intended for blackmail knowing or having reason to believe that such picture or document will be printed, sold, let for hire, distributed or publicly exhibited or in manner put into circulation, or
  - (d) takes part in, or receives profits from, any business in the course of which he knows or has reason to believe that any such newspaper, periodical, circular, picture or other printed or written document is printed, exhibited, distributed, circulated, sold, let for hire, made, produced, kept, conveyed or purchased, or
  - (e) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such newspaper, periodical, circular, picture or other printed or written document which is grossly indecent or is scurrilous or intended for blackmail can be procured from or through any person, or
  - (f) offers or attempts to do any act which is an offence under this section,

[324](#)[shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both : ]

Provided that for a second or any subsequent offence under this section, he shall be punished with imprisonment of either description for a term which shall not be less than six months [325](#)[and not more than two years].

*Explanation I.*—For the purposes of this section, the word ‘scurrilous’ shall be deemed to include any matter which is likely to be injurious to morality or is calculated to injure any person:

Provided that it is not scurrilous to express in good faith anything whatever respecting the conduct of—

- (i) a public servant in the discharge of his public functions or respecting his character so far as his character appears in that conduct and no further; or
- (ii) any person touching any public question, and respecting his character, so far as his character appears in that conduct and no further.

*Explanation II.*—In deciding whether any person has committed an offence under this section, the court shall have regard, inter alia,



to the following considerations—

- (a) the general character of the person charged, and where relevant, the nature of his business;
- (b) the general character and dominant effect of the matter alleged to be grossly indecent or scurrilous or intended for blackmail;
- (c) any evidence offered or called by or on behalf of the accused person as to his intention in committing any of the acts specified in this section." [*Vide* Tamil Nadu Act 25 of 1960, S. 3, dt. 9-11-1960.]

► **Test of obscenity.**—Use of a personality, historical or otherwise, as a medium of obscenity as an actionable concept under S. 292 IPC, does not amount to creation of a new offence. It is merely judicial elucidation of the offence as contained in S. 292, *Devidas Ramachandra Tuljapurkar v. State of Maharashtra*, (2015) 6 SCC 1.

<sup>326</sup>[293. *Sale, etc., of obscene objects to young person.*—Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished <sup>327</sup>[on first conviction with imprisonment of either description for a term which may extend to three years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees].]

#### STATE AMENDMENTS

Orissa.—*Amended by Orissa Act 13 of 1962* [same as that of Tamil Nadu].

Tamil Nadu.—In its application to the whole of the State of Tamil Nadu, in Section 293—

- (a) for the words "any such obscene object as is referred to in the last preceding section" substitute the words, figures and letter, "any such obscene object as is referred to in Section 292 or any such newspaper, periodical, circular, picture or other printed or written document as is referred to in Section 292-A";
- (b) for the words "which may extend to six months" *substitute* the words "which may extend to three years";
- (c) in the marginal note, after the words "obscene objects" *insert* the words "and grossly indecent or scurrilous matter intended for blackmail". [*Vide* by Tamil Nadu Act 25 of 1960.]

<sup>328</sup>[294. *Obscene acts and songs.*—Whoever, to the annoyance of others,—

- (a) does any obscene act in any public place, or



(b) sings, recites or utters any obscene songs, ballad or words, in or near any public place,  
shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.]

<sup>329</sup>[294-A. Keeping lottery office.—Whoever keeps any office or place for the purpose of drawing any lottery <sup>330</sup>[not being <sup>331</sup>[a State lottery] or a lottery authorised by the State Government], shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear from doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery shall be punished with fine which may extend to one thousand rupees.]

#### STATE AMENDMENTS

Andhra Pradesh.—In its application to the State of Andhra Pradesh, the provisions of Section 294-A are *repealed*. [*Vide* A.P. Act 16 of 1968, S. 27]

Gujarat.—*Amended by Bombay Act 82 of 1958* (same as that of Maharashtra).

Karnataka.—In its application to the whole of the Mysore area except Bellary district, the provisions of Section 294-A are *repealed*. [*Vide* Mysore Act 27 of 1951.]

Maharashtra.—In its application to the State of Maharashtra the provisions of Section 294-A are *repealed*. [*Vide* Bombay Act 82 of 1958.]

Manipur.—In its application to the State of Manipur the provisions of Section 294-A are *repealed*. [*Vide* Manipur Act 2 of 1992, S. 30.]

Uttar Pradesh.—In its application to the State of Uttar Pradesh, Section 294-A shall be *omitted*. [*Vide* U.P. Act 24 of 1995, S. 11].

#### Chapter XV

#### OF OFFENCES RELATING TO RELIGION

295. Injuring or defiling place of worship with intent to insult the religion of any class.—Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

<sup>332</sup>[295-A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious

**beliefs.**—Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of [333](#)[citizens of India], [334](#)[by words, either spoken or written, or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to [335](#)[three years], or with fine, or with both.]

► **Essential Ingredients.**—Section 295-A does not penalise any and every act of insult to or attempt to insult the religion or the religious beliefs of a class of citizens but only punishes the aggravated form of insult to religion with the deliberate and malicious intention of outraging the religious feelings of that class. Insults to religion offered unwittingly or carelessly or without any malicious or deliberate intention to outrage feelings of that class, not culpable, *Ramji Lal Modi v. State of U.P.*, 1957 SCR 860.

**296. Disturbing religious assembly.**—Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**297. Trespassing on burial places, etc.**—Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**298. Uttering words, etc., with deliberate intent to wound religious feelings.**—Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

#### STATE AMENDMENTS

**Andhra Pradesh.**—In its application to the State of Andhra Pradesh, offence under Section 298 is cognizable. [*Vide* A.P. G.O. Ms. No. 732, dt. 5-12-1991]

#### Chapter XVI

## OF OFFENCES AFFECTING THE HUMAN BODY

### Of offences affecting life

**299. Culpable homicide.**—Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

#### *Illustrations*

(a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(c) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

**Explanation 1.**—A person who causes bodily injury, to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

**Explanation 2.**—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

**Explanation 3.**—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

► **Intention and Knowledge.**—An offence under Section 302 presupposes an offence under Section 299. But an offence under Section 299 becomes an offence under Section 302 if it is committed with the intention or knowledge described in the four clauses of Section 300. If the requisite intention or knowledge is not proved then the offence is one under Section 299 provided the intention or the knowledge mentioned in the clauses (a) to (c) of that section are proved, *Suresh Chand v. State*, 1971 SCC OnLine Del 120 : 1972 Cri LJ 1416.

► **Distinction between Culpable Homicide and Murder.**—Whether the offence is culpable homicide or murder, depends upon degree of risk to human

life. If death is a likely result, it is culpable homicide, if it is the most probable result, it is murder, *Reg. v. Govinda*, 1876 SCC OnLine Bom 2.

► **Applicability.**—Distinction between Section 299 and Section 300- Court's approach for awarding punishment — To decide whether an offence is 'murder' or 'culpable homicide not amounting to murder', Court's to approach the problem in three stages. Firstly, whether the accused has done an act which has caused the death of another. Proof of such causal connection between the act of the accused and the death leads to the second stage for considering whether that act of the accused amounts to "culpable homicide" as defined in Section 299. If the answer to this question is in the affirmative, the Court should determine whether the facts brings the case within the ambit of any of the four clauses of the definition of 'murder' under Section 300. If the answer is in the negative, the offence would be 'culpable homicide not amounting to murder', punishable under the first or the second part of Section 304, depending, respectively, on whether the second or the third clause of Section 299 is applicable. If the answer is positive, but the case comes within any of the exceptions enumerated in Section 300, the offence would still be 'culpable homicide not amounting to murder', punishable under the first part of Section 304, *State of A.P. v. Rayavarapu Punnayya*, (1976) 4 SCC 382 : 1976 SCC (Cri) 659.

► **"Cause death" — Meaning.**—Decision not to prolong life of a terminally ill/permanent vegetative state patient by medical treatment does not involve intention to cause death, *Common Cause v. Union of India*, (2018) 5 SCC 1.

**300. Murder.**—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

*2ndly.*—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

*3rdly.*—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

*4thly.*—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

#### *Illustrations*

(a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course

of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death or such bodily injury as in the ordinary course of nature would cause death.

(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A, is guilty of murder, although he may not have intended to cause Z's death.

(d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

*Exception 1.*—When culpable homicide is not murder.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:—

*First.*—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

*Secondly.*—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

*Thirdly.*—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

*Explanation.*—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

#### *Illustrations*

(a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the

exercise of his powers.

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(e) A attempts to pull Z's nose, Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

*Exception 2.*—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

*Illustration*

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

*Exception 3.*—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

*Exception 4.*—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

*Explanation.*—It is immaterial in such cases which party offers the provocation or commits the first assault.

*Exception 5.*—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

*Illustration*



A, by instigation, voluntarily causes Z, a person under eighteen years of age to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

► **Section 300 Fourthly.**—Intention to cause death, held, not necessary to attract Section 300 Fourthly. Rather, the applicability of Section 300 Fourthly depends on the knowledge that can be attributed to the accused, *Shatrughna Baban Meshram v. State of Maharashtra*, (2021) 1 SCC 596.

► **Euthanasia.**—Active euthanasia constitutes offence of murder under Section 300 Firstly but passive euthanasia falls under Exception 5 to Section 300, *Common Cause v. Union of India*, (2018) 5 SCC 1.

► **Burden of proof.**—The burden of proving that the case falls within the four corners of any of the Exceptions under Section 300 IPC is on the accused. Even without adducing any defence evidence it may be possible for the accused to discharge the said burden with reference to material appearing by virtue of the prosecution evidence which includes cross-examination of prosecution witnesses. The test is one of preponderance of probability, *Paul v. State of Kerala*, (2020) 3 SCC 115.

**301. Culpable homicide by causing death of person other than person whose death was intended.**—If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

**302. Punishment for murder.**—Whoever commits murder shall be punished with death, or [336](#) [imprisonment for life], and shall also be liable to fine.

► **Constitutional validity.**—Constitutionality of death sentence, upheld, *Bachan Singh v. State of Punjab*, (1982) 3 SCC 24 : 1982 SCC (Cri) 535.

► **“Rarest of rare” case.**—Guidelines which are to be kept in view when considering the question whether the case belongs to the rarest of the rare category, indicated, *Machhi Singh v. State of Punjab*, (1983) 3 SCC 470.

► **Non-remittable special category sentence.**—Warrantedness of non-remittable special category sentence in substitution of death sentence, laid down, *Swamy Shraddhananda (2) v. State of Karnataka*, (2008) 13 SCC 767 : (2009) 3 SCC (Cri) 113.

► **Sentence/punishment.**—Sentence/punishment less than imprisonment for life, when accused is convicted for offence punishable under Section 302 is not permissible, as punishment for murder under Section 302 is death or imprisonment for life and fine. Any punishment less than imprisonment for life under Section 302 would be contrary to Section 302, *State of M.P. v. Nandu*,

(2022) 9 SCC 184, See also *Bharatkumar Rameshchandra Barot v. State of Gujarat*, (2018) 18 SCC 388.

► **Award of Death Sentence.**—Law summarised regarding death sentence, whether to be confirmed/imposed, or, not, upon application of “crime test”, “criminal test” and “rarest of the rare test”, *Manoj Pratap Singh v. State of Rajasthan*, (2022) 9 SCC 81, See also *Arvind Singh v. State of Maharashtra*, (2021) 11 SCC 1 : AIR 2020 SC 2451.

► **Review of death sentence cases in open court.**—Review of death sentence should be in open court and not by circulation. A limited oral hearing even at the review stage is mandated by Article 21 of the Constitution in all death sentence cases. Considering the 1978 Amendment, the time limit for oral hearing in review of death cases is limited to 30 minutes, *Mohd. Arif v. Supreme Court of India*, (2014) 9 SCC 737 : (2014) 5 SCC (Cri) 408.

► **Mitigating circumstances.**—When offence is gruesome and has been committed in a calculated, cold-blooded and diabolical manner, age of accused may not be a relevant factor for award of death sentence, *Shabnam v. State of U.P.*, (2015) 6 SCC 632.

Compassionate grounds are not available in cases of calculated cold-blooded murders, *Shabnam v. State of U.P.*, (2015) 6 SCC 632.

► **Aggravating circumstance.**—Gang rape and murder by persons in trust, is an additional aggravating circumstance for award of death sentence, *Purushottam Dashrath Borate v. State of Maharashtra*, (2015) 6 SCC 652.

Conviction for previous similar offence can be considered as an aggravating circumstance, *Ishwari Lal Yadav v. State of Chhattisgarh*, (2019) 10 SCC 423.

► **Honour Killing.**—Honour killings, come within the category of the rarest of rare cases deserving death punishment, *Vikas Yadav v. State of U.P.*, (2016) 9 SCC 541 : (2016) 3 SCC (Cri) 621.

► **Death Sentence for Rape.**—In cases of brutal, barbaric gang rape, unnatural sex and assault leading to death of victim, principles of balancing of aggravating and mitigating circumstances, must be applied and death sentence be confirmed even in presence of many mitigating factors, *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1.

► **Rape/Sodomy and murder of minor.**—For imposition of death penalty, there must be some exceptional circumstances. It is not only the crime, but also the criminal that must be kept in mind. The reason for the second precaution is that the death sentence, upon execution, is irrevocable and irretrievable, *Rajendra Pralhadrao Wasnik v. State of Maharashtra*, (2019) 12 SCC 460, See also *Irappa Siddappa Murgannavar v. State of Karnataka*, (2022) 2 SCC 801; *Pappu v. State of U.P.*, (2022) 10 SCC 321.

Principles for imposition of death sentence, surveyed in detail. Practical guidelines framed for collection/collation of mitigating circumstances, *Manoj v. State of M.P.*, (2023) 2 SCC 353.

► **Theory of “residual doubt”.**—The theory of “residual doubt” cannot



apply at the sentencing stage as a mitigating factor. In any case the theory of “residual doubt” is theoretically unsound, *Shatrughna Baban Meshram v. State of Maharashtra*, (2021) 1 SCC 596.

► **Death sentence for aggravated penetrative sexual assault on minor.**—Legislature has distanced itself from propounders of “No-Death Sentence” in “No Circumstances” theory as recently in 2019. Significantly, by 2019 Amendment of Section 6, POCSO Act, 2012, death sentence has been introduced as a penalty for offence of aggravated penetrative sexual assault on a child below 12 yrs, *Ravi v. State of Maharashtra*, (2019) 9 SCC 622.

► **Death warrants.**—Issuance of death warrants without allowing condemned convicts to exhaust all legal remedies, violative of Article 21, *Shabnam v. Union of India*, (2015) 6 SCC 702.

► **Duty of court before awarding conviction under this section.**—Duty of court before awarding conviction and general rule while appreciating evidence in criminal trial, the courts should be mindful that there is no room to suspect evidence of key prosecution witnesses based on whose evidence conviction is awarded, *Shanker v. State of M.P.*, (2018) 15 SCC 725, See also *Suresh v. State of Haryana*, (2018) 18 SCC 654.

► **Dying declaration as sole basis of conviction.**—Dying declaration can form basis of conviction if it inspires the court's confidence that the deceased at the time of making such declaration was in a fit state of mind and there was no tutoring or prompting, *Madan v. State of Maharashtra*, (2019) 13 SCC 464, See also *Atbir v. Govt. (NCT of Delhi)*, (2010) 9 SCC 1.

► **Circumstantial evidence of last seen together.**—Time-lag between occurrence of death and when accused was last seen in company of deceased has to be reasonably close, to permit inference of guilt to be drawn. When time-lag is considerably large, it would be safer for court to look for corroboration, *Ravi v. State of Karnataka*, (2018) 16 SCC 102.

► **Murder or culpable homicide not amounting to murder.**—Culpable homicide is not murder if offender causes death of person who gave provocation, whilst deprived of power of self-control by grave and sudden provocation and provocation should be one which is not sought or voluntarily provoked by offender as an excuse for killing or doing harm to any person, *State of U.P. v. Faqurey*, (2019) 5 SCC 605, See also *Khokan v. State of Chhattisgarh*, (2021) 3 SCC 365.

► **Murder — Unlawful assembly.**—In case of multiple accused persons and several eyewitnesses, applicability of two-witness theory, discussed. Extent of corroboration necessary from remaining material evidence, explained, *Duleshwar v. State of M.P.*, (2020) 11 SCC 440.

► **Single blow/injury.**—There is no fixed rule that whenever a single blow is inflicted, Section 302 would not be attracted, *State of Rajasthan v. Kanhaiya Lal*, (2019) 5 SCC 639.

► **Post-conviction mental illness of accused/death row convict.**—Mental illness should be of such serious kind that accused rendered unable to understand

nature and purpose of sentence, 'X' v. *State of Maharashtra*, (2019) 7 SCC 1.

► **Minor discrepancies.**—Undue importance should not be attached to omissions, contradictions and discrepancies which do not go to the heart of the matter and do not shake the basic version of prosecution witness. This is particularly true when prosecution case is corroborated by medical and forensic evidence, *Rohtas v. State of Haryana*, (2019) 10 SCC 554.

Non-examination of ballistics expert in incident of firing is held to be fatal, when there were discrepancies in the FSL report and the eyewitness testimony found not free from doubt, *Rajesh v. State of Haryana*, (2021) 1 SCC 118.

► **Right of private defence.**—Right of private defence cannot be claimed by accused if disproportionate harm is caused, *Jangir Singh v. State of Punjab*, (2019) 13 SCC 813.

► **Presumption of murder.**—Abduction followed by murder in appropriate cases can enable court to presume that abductor is the murderer. Principle in this regard is that after abduction, the abductor would be in a position to explain what happened to his victim and if he failed to do so, it is only natural and logical that an irresistible inference may be drawn that he has done away with the hapless victim, *Somasundaram v. State*, (2020) 7 SCC 722.

► **Mob assault.**—In a case of a mob assault, especially when there is no doubt with regard to ocular evidence, held, to look for corroboration of each injury by correlating it with the evidence of a prosecution witness to a particular accused and then to discredit the prosecution case on that basis cannot be upheld, *State of U.P. v. Ravindra*, (2019) 19 SCC 65.

► **Parity.**—If some accused are acquitted based on unreliability of particular witnesses or evidence, then that benefit must extend to all accused who are implicated based on testimony of those same unreliable witnesses or that same unreliable evidence, *Jodhraj v. State of Rajasthan*, (2020) 14 SCC 205.

► **Time of death — Expert evidence.**—The opinion of the expert can only suggest the time range, and not the precise time of death, *Arvind Singh v. State of Maharashtra*, (2021) 11 SCC 1 : AIR 2020 SC 2451.

► **Injury on accused.**—Injury on accused is not material, when not only the injured accused took plea of their absence from the place of occurrence, but the doctor's evidence and the evidence of the eyewitnesses clearly explained the reasons behind the injury suffered by them, *Jafarudheen v. State of Kerala*, (2022) 8 SCC 440.

► **Related eyewitnesses and chance witnesses.**—Related eyewitnesses and chance witnesses, is not material when nothing was found to impeach evidence of the witnesses and they were found likely to be seen near the place of occurrence, *Jafarudheen v. State of Kerala*, (2022) 8 SCC 440, See also *Rajesh v. State of Haryana*, (2021) 1 SCC 118.

► **Defect in investigation.**—Solely on account of defects or shortcomings in investigation an accused is not entitled to get acquitted, *Veerendra v. State of M.P.*, (2022) 8 SCC 668.

► **Review petition against death sentence.**—Converting death sentence to life imprisonment, when both High Court and Supreme Court affirmed death sentence, when warranted, explained, *M.A. Antony v. State of Kerala*, (2020) 17 SCC 751.

► **Circumstantial evidence.**—Law clarified re burden on prosecution as well as on inmates of house in case of commission of murder in secrecy inside a house, *Darshan Singh v. State of Punjab*, (2024) 3 SCC 164.

<sup>337</sup>[303. Punishment for murder by life-convict.—Whoever, being under sentence of <sup>338</sup>[imprisonment for life], commits murder, shall be punished with death.]

► **Constitutional validity.**—Section 303 is unconstitutional and must be struck down, *Mithu v. State of Punjab*, (1983) 2 SCC 277 : 1983 SCC (Cri) 405.

304. Punishment for culpable homicide not amounting to murder.—Whoever commits culpable homicide not amounting to murder, shall be punished with <sup>339</sup>[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death;

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

► **Sections 304-B and 306 — Relative scope.**—An unnatural dowry death, whether homicidal or suicidal, would attract Section 304-B. It would mean death, not in the normal course. Section 306 is much broader in its application and takes within its fold one aspect of Section 304-B. These two sections are not mutually exclusive. If a conviction for causing a suicide is based on Section 304-B, it will necessarily attract Section 306. However, the converse is not true, *Bhupendra v. State of M.P.*, (2014) 2 SCC 106 : (2014) 1 SCC (Cri) 1.

<sup>340</sup>[304-A. Causing death by negligence.—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.]

#### STATE AMENDMENTS

Himachal Pradesh.—In its application to the State of Himachal Pradesh, after Section 304-A, the following section shall be *inserted*, namely—

‘304-AA. *Causing death or injury by driving a public service vehicle while in a state of intoxication.*—Whoever, while in a state of

intoxication, drives or attempts to drive a public service vehicle and causes the death of any person not amounting to culpable homicide, or causes any bodily injury likely to cause death, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, as if the act by which death or bodily injury is caused, is done with the knowledge that he is likely by such act to cause death or cause such bodily injury as is likely to cause death.

*Explanation.*—“Public service vehicle” means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxicab, a motorcab, contract carriage and stage carriage’. [Vide Criminal Law (Himachal Pradesh Amendment) Act, 1997 (19 of 1997), S. 2 (w.e.f. 30-8-1997)]

In its application to the State of Himachal Pradesh, in Section 304-AA,—

- (a) for the words “a public service vehicle” where ever these occur, *substitute* the words “any vehicle”; and
- (b) *omit* the Explanation.

[Vide The Criminal Law (Himachal Pradesh Amendment) Act, 2011 (7 of 2012), S. 2 (w.e.f. 9-2-2012)]

<sup>341</sup>[304-B. Dowry death.—(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

*Explanation.*—For the purpose of this sub-section, “dowry” shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

► **“Dowry”—Meaning and scope.**—It should be any property or valuable security given or agreed to be given in connection with the marriage. Customary gift or payment in connection with birth of child or other ceremonies unrelated to the marriage ceremony, held, do not fall within the ambit of “dowry”, *Satvir Singh v. State of Punjab*, (2001) 8 SCC 633.

► **Ingredients.**—The essential components of Section 304-B are : (i) Death of a woman occurring otherwise than under normal circumstances, within 7 years of marriage. (ii) Soon before her death she should have been subject to cruelty and harassment in connection with any demand for dowry, *Satvir Singh v. State of Punjab*, (2001) 8 SCC 633, relying on *Shanti v. State of Haryana*, (1991) 1

SCC 371 : 1991 SCC (Cri) 191; *Kans Raj v. State of Punjab*, (2000) 5 SCC 207 : 2000 SCC (Cri) 935.

The most fundamental constituent for attracting the provisions of Section 304-B Penal Code is that the death of the woman must be a dowry death, *State of M.P. v. Jogendra*, (2022) 5 SCC 401.

► **Term “soon before” — Meaning.**—It is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. Furthermore, the said term is not synonymous with the term “immediately before” and is the opposite of the expression “soon after” as used and understood in Section 114 Ill. (a) of the Evidence Act, *State of M.P. v. Jogendra*, (2022) 5 SCC 401, See also *Satvir Singh v. State of Punjab*, (2001) 8 SCC 633.

► **Phrase “soon before” — Interpretation.**—Being a criminal statute, generally it is to be interpreted strictly. However, where strict interpretation leads to absurdity or goes against the spirit of legislation, the courts may in appropriate cases place reliance upon the genuine import of the words, taken in their usual sense to resolve such ambiguities, *Satbir Singh v. State of Haryana*, (2021) 6 SCC 1.

► **Death caused “otherwise than under normal circumstances—Meaning.**—The expression “otherwise than under normal circumstances” would mean death not in the usual course but apparently under suspicious circumstances, if not caused by burns or bodily injury, *Kans Raj v. State of Punjab*, (2000) 5 SCC 207 : 2000 SCC (Cri) 935.

Under Section 304-B prosecution cannot escape from discharging its burden of proving that harassment or cruelty was related to demand for dowry soon before death, *State of Haryana v. Angoori Devi*, (2020) 18 SCC 773.

► **Words “shown” and “deemed” — Interpretation of.**—“Shown” should be read as “proved” and “deemed” should be read as “presumed”, *Sher Singh v. State of Haryana*, (2015) 3 SCC 724.

**305. Abetment of suicide of child or insane person.**—If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide shall be punished with death or [342](#)[imprisonment for life], or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

**306. Abetment of suicide.**—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

► **Abetment, what constitutes.**—To constitute abetment, there must be course of conduct or action of intentionally aiding or facilitating another person to end life, *Common Cause v. Union of India*, (2018) 5 SCC 1.

► **Essential ingredients.**—The basic ingredients of Section 306 IPC are suicidal death and abetment thereof. To constitute abetment, intention and involvement of accused to aid or instigate commission of suicide is imperative. Any severance or absence of any of these constituents would militate against said indictment, *Gurcharan Singh v. State of Punjab*, (2017) 1 SCC 433.

► **Abetment of suicide.**—Insulting deceased by using abusive language will not, by itself, constitute abetment of suicide. There should be evidence capable of suggesting that accused intended by such act(s) to instigate deceased to commit suicide, *M. Arjunan v. State*, (2019) 3 SCC 315.

► **Abetment of suicide and cruelty.**—In case of abetment of suicide and cruelty, there is need to establish conduct of accused which drove deceased to commit suicide, *Jagdishraj Khatta v. State of H.P.*, (2019) 9 SCC 248.

► **Section 306 and Section 498-A.**—Sections 498-A and 306 IPC are independent and constitute different offences. Merely because accused is found guilty under Section 498-A he should not necessarily be held to be guilty under Section 306 on the basis of the same evidence, *Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618.

► **Instigation to commit suicide.**—A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. To draw the inference of instigation it all depends on facts and circumstances of the case, *State of W.B. v. Indrajit Kundu*, (2019) 10 SCC 188.

**307. Attempt to murder.**—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to [343](#) [imprisonment for life], or to such punishment as is hereinbefore mentioned.

Attempts by life convicts.—[344](#) [When any person offending under this section is under sentence of [345](#) [imprisonment for life], he may, if hurt is caused, be punished with death.]

#### *Illustrations*

(a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

(b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and, if by such firing he wounds Z, he is



liable to the punishment provided by the latter part of [346](#) [the first paragraph of] this section.

(d) A, intending to murder Z, by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

► **Ingredients.**—Proof of grievous or life threatening hurt is not a sine qua non for offence under S. 307. Intention of accused can be ascertained from actual injury, if any, as well as from surrounding circumstances. Among other things, nature of weapon used and severity of blows inflicted, can be considered to infer intent, *State of M.P. v. Kanha*, (2019) 3 SCC 605, See also *Vasudev v. State of M.P.*, (2022) 4 SCC 735.

► **Proportionate sentence.**—While considering the quantum of sentence, the courts are expected to consider all relevant facts and circumstances of the case, in particular, nature of injuries and the weapon used. The courts are bound to impose sentence commensurate with the gravity of the offence, *Suryakant Baburao v. State of Maharashtra*, (2020) 17 SCC 518.

**308. Attempt to commit culpable homicide.**—Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

*Illustration*

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

► **Duty of Court regarding Evidence.**—Endorsement by the Court on a charge sheet presented by police as it is without applying its mind and without recording brief reasons in support of its opinion is not countenanced by law, *State (NCT of Delhi) v. Raju*, (2023) 5 HCC (Del) 701.

**309. Attempt to commit suicide.**—Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year [347](#) [or with fine, or with both].

NOTE ► Ed.: Effect of Section 309 read down vide Section 115 Mental Healthcare Act, 2017 (10 of 2017). Section 115 reads as:

"115. Presumption of severe stress in case of attempt to

commit suicide.—(1) Notwithstanding anything contained in Section 309 of the Penal Code (45 of 1860) any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code.

(2) The appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide."

**310. Thug.**—Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a thug.

**311. Punishment.**—Whoever is a thug, shall be punished with [348](#) [imprisonment for life], and shall also be liable to fine.

**Of the causing of miscarriage, of injuries to unborn children, of the exposure of infants, and of the concealment of births**

**312. Causing miscarriage.**—Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Explanation.*—A woman who causes herself to miscarry, is within the meaning of this section.

**313. Causing miscarriage without woman's consent.**—Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with [349](#) [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.

**314. Death caused by act done with intent to cause miscarriage.**—Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

if act done without woman's consent.—And if the act is done without the consent of the woman, shall be punished either with [350](#) [imprisonment for life], or with the punishment above mentioned.

*Explanation.*—It is not essential to this offence that the offender should know that the act is likely to cause death.



**315. Act done with intent to prevent child being born alive or to cause it to die after birth.**—Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

**316. Causing death of quick unborn child by act amounting to culpable homicide.**—Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Illustration*

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

**317. Exposure and abandonment of child under twelve years, by parent or person having care of it.**—Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

*Explanation.*—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child dies in consequence of the exposure.

**318. Concealment of birth by secret disposal of dead body.**—Whoever, by secretly burying or otherwise disposing of the dead body of a child whether such child dies before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**Of hurt**

**319. Hurt.**—Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

**320. Grievous hurt.**—The following kinds of hurt only are designated as "grievous":

*First.*—Emasculation.

*Secondly.*—Permanent privation of the sight of either eye.

*Thirdly.*—Permanent privation of the hearing of either ear.

*Fourthly.*—Privation of any member or joint.

*Fifthly.*—Destruction or permanent impairing of the powers of any member or joint.

*Sixthly.*—Permanent disfiguration of the head or face.

*Seventhly.*—Fracture or dislocation of a bone or tooth.

*Eighthly.*—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.

**321. Voluntarily causing hurt.**—Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “voluntarily to cause hurt”.

**322. Voluntarily causing grievous hurt.**—Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “voluntarily to cause grievous hurt”.

*Explanation.*—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

#### *Illustration*

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

**323. Punishment for voluntarily causing hurt.**—Whoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

► **Causing “hurt” — Scope.**—Production of an injury report, held, not a sine qua non for establishing case under Section 323. Non-visible injuries and even causing bodily pain comes within ambit of causing “hurt”, *Lakshman Singh v. State of Bihar*, (2021) 9 SCC 191.

**324. Voluntarily causing hurt by dangerous weapons or means.**—Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by

means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**325. Punishment for voluntarily causing grievous hurt.**—Whoever, except in the case provided for by Section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

► **Imposition of jail sentence and fine on accused.**—Once accused is held guilty of commission of offence punishable under Section 325 IPC, then imposition of jail sentence and fine on accused is mandatory. In other words, award of punishment would include both i.e. jail sentence and fine, *State of U.P. v. Tribhuwan*, (2018) 1 SCC 90.

**326. Voluntarily causing grievous hurt by dangerous weapons or means.**—Whoever, except in the case provided for by Section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with <sup>351</sup>[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.

► **Sentence for causing grievous hurt.**—Sentence for causing grievous hurt must be adequate. Brutality of the crime should also be considered, *Sumer Singh v. Surajbhan Singh*, (2014) 7 SCC 323 : (2014) 3 SCC (Cri) 184.

<sup>352</sup>[**326-A. Voluntarily causing grievous hurt by use of acid, etc.**—Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:

Provided further that any fine imposed under this section shall be

paid to the victim.]

► **Applicability.**—It is not the percentage or gravity of injury, which makes the difference. Be it simple or grievous, if the injury falls under the specified types under Section 326-A on account of use of acid, the offence under Section 326-A is attracted, *Maqbool v. State of U.P.*, (2019) 11 SCC 395.

► **Acid Attack.**—Considering seriousness of crime, reduction of sentence by the High Court to the period already undergone which was only 30 days, not justified and resultantly, sentence of one year as imposed by the trial Court directed to be restored. Further, as the attack resulted in disfigurement in some part of her body, the accused directed to pay a compensation of Rs 50,000 and the State directed to pay a compensation of Rs 3 lakhs, *Ravad Sasikala v. State of A.P.*, (2017) 4 SCC 546.

**326-B. Voluntarily throwing or attempting to throw acid.**—Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

*Explanation 1.*—For the purposes of Section 326-A and this section, “acid” includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

*Explanation 2.*—For the purposes of Section 326-A and this section, permanent or partial damage or deformity shall not be required to be irreversible.]

► **Attempt to throw Acid.**—The mere act of throwing or attempt would attract the offence under Section 326-B, *Maqbool v. State of U.P.*, (2019) 11 SCC 395.

**327. Voluntarily causing hurt to extort property, or to constrain to an illegal act.**—Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**328. Causing hurt by means of poison, etc., with intent to commit an offence.**—Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with

imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.**—Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything that is illegal or which may facilitate the commission of an offence, shall be punished with <sup>353</sup>[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**330. Voluntarily causing hurt to extort confession, or to compel restoration of property.**—Whoever voluntarily causes hurt for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

#### *Illustrations*

(a) A, a police officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.

(b) A, a police officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(d) A, a zamindar, tortures a raiyat in order to compel him to pay his rent. A is guilty of an offence under this section.

**331. Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.**—Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may

extend to ten years, and shall also be liable to fine.

**332. Voluntarily causing hurt to deter public servant from his duty.**—Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### STATE AMENDMENTS

Maharashtra.—In its application to the State of Maharashtra, in Section 332, for the words “three years” the words “five years” shall be *substituted*. [*Vide Mah. Act 40 of 2018, S. 2, dated 7-6-2018*]

**333. Voluntarily causing grievous hurt to deter public servant from his duty.**—Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**334. Voluntarily causing hurt on provocation.**—Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

**335. Voluntarily causing grievous hurt on provocation.**—Whoever [354](#) [voluntarily] causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

*Explanation.*—The last two sections are subject to the same provisions as Exception 1, Section 300.

**336. Act endangering life or personal safety of others.**—Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.



**337. Causing hurt by act endangering life or personal safety of others.**—Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**338. Causing grievous hurt by act endangering life or personal safety of others.**—Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

**Of wrongful restraint and wrongful confinement**

**339. Wrongful restraint.**—Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

*Exception.*—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

*Illustration*

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

**340. Wrongful confinement.**—Whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limits, is said “wrongfully to confine” that person.

*Illustrations*

(a) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(b) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

**341. Punishment for wrongful restraint.**—Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

**342. Punishment for wrongful confinement.**—Whoever wrongfully confines any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**343. Wrongful confinement for three or more days.**—Whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**344. Wrongful confinement for ten or more days.**—Whoever wrongfully confines any person for ten days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**345. Wrongful confinement of person for whose liberation writ has been issued.**—Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of the person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter.

**346. Wrongful confinement in secret.**—Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

**347. Wrongful confinement to extort property, or constrain to illegal act.**—Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**348. Wrongful confinement to extort confession, or compel restoration of property.**—Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also



be liable to fine.

#### Of criminal force and assault

**349. Force.**—A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling : Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:

*First.*—By his own bodily power.

*Secondly.*—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

*Thirdly.*—By inducing any animal to move, to change its motion, or to cease to move.

**350. Criminal force.**—Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

#### Illustrations

(a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other action on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.

(b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

(c) Z is riding in palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent,

in order to the commission of an offence, A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water, and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.

(f) A intentionally pulls up a woman's veil. Here A intentionally uses force to her, and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.

(g) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force.

(h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z.

**351. Assault.**—Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

*Explanation.*—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

#### *Illustrations*

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z, A has

committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating". Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

**352. Punishment for assault or criminal force otherwise than on grave provocation.**—Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

*Explanation.*—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

**353. Assault or criminal force to deter public servant from discharge of his duty.**—Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

#### STATE AMENDMENTS

Maharashtra.—In its application to the State of Maharashtra, in Section 353, for the words "two years" the words "five years" shall be *substituted*. [*Vide Mah. Act 40 of 2018, S. 3, dated 7-6-2018*]

**354. Assault or criminal force to woman with intent to outrage her modesty.**—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, [355](#) [shall be punished with imprisonment of either

description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine].

#### STATE AMENDMENTS

Andhra Pradesh.—In its application to the State of Andhra Pradesh, for Section 354, the following section shall be *substituted*, namely—

“354. *Assault or criminal force to woman with intent to outrage her modesty.*—Whoever assaults or uses criminal force to any woman intending to outrage or knowing it to be likely that he will thereby outrage her modesty shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years and shall also be liable to fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term which may be less than five years, but which shall not be less than two years.” [Vide Andhra Pradesh Act 6 of 1991, S. 2 (w.e.f. 1-4-1991).]

*Note.*—The Act came into force on April 1, 1991 vide GOMs No. 165, dt. 25-3-1992.

Arunachal Pradesh.—In its application to the State of Arunachal Pradesh, in Section 354, for the words “shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine” the words “shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine” shall be *substituted*. [Vide Arunachal Pradesh Act 3 of 2019, S. 5, dt. 2-4-2019].

Chhattisgarh.—In Section 354, the following proviso shall be *inserted*, namely—

“Provided that where offence is committed, under this Section by a relative, guardian or teacher or a person in a position of trust or authority towards the person assaulted, he shall be punishable with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years and shall also be liable to fine.”. [Vide Chhattisgarh Act 25 of 2015, S. 3, w.e.f. 21-7-2015]

► **Immunity from prosecution.**—There is no exception clause giving immunity to the husband under this section, *Independent Thought v. Union of India*, (2017) 10 SCC 800.

<sup>356</sup>[354-A. **Sexual harassment and punishment for sexual harassment.**—(1) A man committing any of the following acts—

- (i) physical contact and advances involving unwelcome and explicit sexual overtures; or

- (ii) a demand or request for sexual favours; or
- (iii) showing pornography against the will of a woman; or
- (iv) making sexually coloured remarks,

shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

#### STATE AMENDMENTS

##### SECTION 354-A

Madhya Pradesh.—In its application to the State of Madhya Pradesh, after Section 354, the following section shall be *inserted*, namely:—

*"354-A. Assault or use of Criminal force to woman with intent to disrobe her.—Whoever assaults or uses criminal force to any woman or abets or conspires to assault or uses such criminal force to any woman intending to outrage or knowing it to be likely that by such assault, he will thereby outrage or causes to be outraged the modesty of the woman by disrobing or compel her to be naked on any public place, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to ten years and shall also be liable to fine."* [Vide Madhya Pradesh Act 14 of 2004, S. 3].

**354-B. Assault or use of criminal force to woman with intent to disrobe.**—Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

#### STATE AMENDMENTS

Arunachal Pradesh.—In its application to the State of Arunachal Pradesh, in Section 354-B, for the words "shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine", the words "shall be punished on first conviction with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine; and be punished on a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years but which may extend to ten years and with fine which

shall not be less than one lakh rupees" shall be *substituted*. [*Vide* Arunachal Pradesh Act 3 of 2019, S. 6, dt. 2-4-2019].

**354-C. Voyeurism.**—Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

*Explanation 1.*—For the purpose of this section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

*Explanation 2.*—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

**354-D. Stalking.**—(1) Any man who—

- (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or
- (ii) monitors the use by a woman of the internet, email or any other form of electronic communication,

commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

- (i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or
- (ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or
- (iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be

punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.]

#### STATE AMENDMENTS

Arunachal Pradesh.—In its application to the State of Arunachal Pradesh, in Section 354-D, for sub-section (2), the following sub-section shall be *substituted*, namely—

"(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and shall also be liable to fine; and be punished on a second or subsequent conviction with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and with fine which shall not be less than one lakh rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of lesser period of imprisonment than specified minimum imprisonment.". [*Vide* Arunachal Pradesh Act 3 of 2019, S. 7, dt. 2-4-2019].

Chhattisgarh.—After Section 354-D, the following shall be *inserted*, namely—

"354-E. *Liability person present who fails to prevent the commission of offence under Sections 354, 354-A, 354-B, 354-C, 354-D.*—Whoever, being present at the time of commission of an offence under Section 354, Section 354-A, Section 354-B, Section 354-C or Section 354-D and being able to prevent such offence, fails to prevent the commission of such offence or not being in position to prevent the commission of such offence, fails to give information of the commission of such offence to the nearest magistrate or police officer, by any mode, with the intention of screening the offender from legal punishment, shall be liable for abetment of such offence and shall be punished with imprisonment of either description which may extend to three years or with fine or with both.". [*Vide* Chhattisgarh Act 25 of 2015, S. 4, w.e.f. 21-7-2015]

Union Territory of Jammu and Kashmir.—In its application to the Union Territory of Jammu and Kashmir, after Section 354-D, *insert* the following section, namely:—

"354-E. *Sextortion.*—(1) Whoever,—

- (a) being in a position of authority; or
- (b) being in a fiduciary relationship; or
- (c) being a public servant,

abuses such authority or fiduciary relationship or misuses his official position to employ physical or non physical forms of coercion to extort or demand sexual favours from any woman in exchange of some



benefits or other favours that such person is empowered to grant or withhold, shall be guilty of offence of sextortion.

*Explanation.*—For the purpose of this section, ‘sexual favour’ shall mean and include any kind of unwanted sexual activity ranging from sexually suggestive conduct, sexually explicit actions such as touching, exposure of private body parts to sexual intercourse, including exposure over the electronic mode of communication.

(2) Any person who commits the offence of sextortion shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to five years and with fine.” [Vide S.O. 1123(E), dated 18-3-2020 (w.e.f. 18-3-2020)].

Union Territory of Ladakh.—In its application to the Union Territory of Ladakh — Same as that of UT of Jammu and Kashmir. [Vide S.O. 3774(E), dated 23-10-2020].

**355. Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.**—Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**356. Assault or criminal force in attempt to commit theft of property carried by a person.**—Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**357. Assault or criminal force in attempt wrongfully to confine a person.**—Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**358. Assault or criminal force on grave provocation.**—Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

*Explanation.*—The last section is subject to the same explanation as Section 352.

**Of kidnapping, abduction, slavery and forced labour**

**359. Kidnapping.**—Kidnapping is of two kinds : kidnapping from [357](#) [India], and kidnapping from lawful guardianship.

**360. Kidnapping from India.**—Whoever conveys any person beyond



the limits of [358](#)[India] without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from [359](#)[India].

**361. Kidnapping from lawful guardianship.**—Whoever takes or entices any minor under [360](#)[sixteen] years of age if a male, or under [361](#)[eighteen] years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

*Explanation.*—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

*Exception.*—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

#### STATE AMENDMENTS

Manipur.—In its application to the Union Territory of Manipur, in Section 361 for the word “eighteen” *substitute* the word “fifteen”. [*Vide* Manipur Act 30 of 1950].

**362. Abduction.**—Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

**363. Punishment for kidnapping.**—Whoever kidnaps any person from [362](#)[India] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

#### STATE AMENDMENTS

Uttar Pradesh.—In its application to the State of Uttar Pradesh, offence under Section 363, is non-bailable. [*Vide* U.P. Act 1 of 1984, S. 12 (w.e.f. 1-5-1984)]

[363](#)[**363-A. Kidnapping or maiming a minor for purposes of begging.**—(1) Whoever kidnaps any minor or, not being the lawful guardian of a minor, obtains the custody of the minor, in order that such minor may be employed or used for the purpose of begging shall be punishable with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(2) Whoever maims any minor in order that such minor may be employed or used for the purposes of begging shall be punished with imprisonment for life, and shall also be liable to fine.

(3) Where any person, not being the lawful guardian of a minor,

employs or uses such minor for the purposes of begging, it shall be presumed, unless the contrary is proved, that he kidnapped or otherwise obtained the custody of that minor in order that the minor might be employed or used for the purposes of begging.

(4) In this section,—

(a) “begging” means—

(i) soliciting or receiving alms in a public place, whether under the pretence of singing, dancing, fortune-telling, performing tricks or selling articles or otherwise;

(ii) entering on any private premises for the purpose of soliciting or receiving alms;

(iii) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(iv) using a minor as an exhibit for the purpose of soliciting or receiving alms;

(b) “minor” means—

(i) in the case of a male, a person under sixteen years of age; and

(ii) in the case of a female, a person under eighteen years of age.]

**364. Kidnapping or abducting in order to murder.**—Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with [364](#)[imprisonment for life] or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

#### *Illustrations*

(a) A kidnaps Z from [365](#)[India], intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

► **Distinction between 363, 364, 364-A, Penal Code.**—Section 363 punishes the act of kidnapping and Section 364 thereof punishes the offence of kidnapping or abduction of a person in order to murder him. Section 364-A further adds to the gravity of the offence by involving an instance of coercive violence or substantial threat thereof, to make a demand for ransom. Accordingly, the maximum punishment for the three crimes is seven years' imprisonment; ten years' imprisonment and imprisonment for life or death, respectively, *Ravi Dhingra v. State of Haryana*, (2023) 6 SCC 76.

<sup>366</sup>[**364-A. Kidnapping for ransom, etc.**—Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction, and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or <sup>367</sup>[any foreign State or international inter-governmental organisation or] any other person to do or abstain from doing any act or to pay a ransom, shall be punishable with death, or imprisonment for life, and shall also be liable to fine.]

► **Constitutional validity.**—Constitutional validity of Section 364-A, upheld, *Vikram Singh v. Union of India*, (2015) 9 SCC 502.

► **Ingredients.**—For commission of an offence under Section 364-A thereof it is necessary to prove that not only kidnapping has taken place but thereafter the accused threatened to cause death or hurt to such person or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt or causes hurt or death to such person in order to compel the Government or any foreign State or international intergovernmental organisation or any other person to do or abstain from doing any act or to pay a ransom, *Anil v. Admn. of Daman & Diu, Daman*, (2006) 13 SCC 36.

There are three stages in this section, one is the kidnapping or abduction, second is threat of death coupled with the demand of money and lastly when the demand is not met, then causing death. If the three ingredients are available, that will constitute the offence under Section 364-A of the Penal Code. Any of the three ingredients can take place at one place or at different places, *Vishwanath Gupta v. State of Uttaranchal*, (2007) 11 SCC 633.

► **Necessary ingredients.**—Act of kidnapping of a child for ransom, held, has inherent threat to cause death as that alone will force relatives of such victim to pay ransom. Such threat will remain a mere threat, if victim returns unhurt. It cannot be read to mean that in a case of kidnapping or abduction of a child of a tender age, presumption in law shall arise that kidnapping, or abduction has been done to cause hurt or death. Each case to be decided on its own facts, *Arvind Singh v. State of Maharashtra*, (2021) 11 SCC 1 : AIR 2020 SC 2451, See also *Sk. Ahmed v. State of Telangana*, (2021) 9 SCC 59.

► **Interpretation of words “and” and “or” used between the conditions.**—Word “and” is used as conjunction and the use of word “or” is clearly disjunctive. Both the words, held, are used for different purpose and object and, thus, the court should be extremely reluctant in a criminal statute to substitute disjunctive words for conjunctive words, and vice versa, if such action adversely affects the accused, *Sk. Ahmed v. State of Telangana*, (2021) 9 SCC 59.

**365. Kidnapping or abducting with intent secretly and wrongfully to confine person.**—Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be

punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**366. Kidnapping, abducting or inducing woman to compel her marriage, etc.**—Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; <sup>368</sup>[and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid].

► **Ingredients.**—Mere abduction does not bring accused under ambit of Section 366. It must be proved that accused abducted woman with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person or in order that she may be forced or seduced to illicit intercourse or knowing it to be likely that she will be forced or seduced to illicit intercourse, *Kavita Chandrakant Lakhani v. State of Maharashtra*, (2018) 6 SCC 664, See also *Anversinh v. State of Gujarat*, (2021) 3 SCC 12.

<sup>369</sup>[**366-A. Procurement of minor girl.**—Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.]

<sup>370</sup>[**366-B. Importation of girl from foreign country.**—Whoever imports into <sup>371</sup>[India] from any country outside India <sup>372</sup>[or from the State of Jammu and Kashmir] any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, <sup>373</sup>[\* \* \*] shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.]

**367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.**—Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten

years, and shall also be liable to fine.

**368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.**—Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

► **Wrongful Concealment.**—To constitute an offence under Section 368, IPC the prosecution must establish the following ingredients, (a) the person in question has been kidnapped, (b) the accused knew that the said person had been kidnapped, (c) the accused having such knowledge, wrongfully conceals or confines the person concerned, *Saroj Kumari v. State of U.P.*, (1973) 3 SCC 669.

► **Knowledge of offence.**—Knowledge on the part of the accused cannot be presumed to convict him under Section 368, IPC, *Griftar Alla Bux v. State*, 1971 SCC OnLine All 413 : 1973 Cri LJ 12.

**369. Kidnapping or abducting child under ten years with intent to steal from its person.**—Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>374</sup>[**370. Trafficking of person.**—(1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—

*First.*—using threats, or

*Secondly.*—using force, or any other form of coercion, or

*Thirdly.*—by abduction, or

*Fourthly.*—by practising fraud, or deception, or

*Fifthly.*—by abuse of power, or

*Sixthly.*—by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received,

commits the offence of trafficking.

*Explanation 1.*—The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

*Explanation 2.*—The consent of the victim is immaterial in determination of the offence of trafficking.

(2) Whoever commits the offence of trafficking shall be punished

with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

(5) Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.

(6) If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

(7) When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

**370-A. Exploitation of a trafficked person.**—(1) Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.

(2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.]

**371. Habitual dealing in slaves.**—Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with [375](#)[imprisonment for life], or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

**372. Selling minor for purposes of prostitution, etc.**—Whoever sells, lets to hire, or otherwise disposes of any [376](#)[person under the age of eighteen years with intent that such person shall at any age be

employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

<sup>377</sup>[*Explanation I.*—When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

*Explanation II.*—For the purposes of this section “illicit intercourse” means sexual intercourse between persons not united by marriage, or by any union or tie which, though not amounting to a marriage, is recognized by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a quasi-marital relation.]

**373. Buying minor for purposes of prostitution, etc.**—Whoever buys, hires or otherwise obtains possession of any <sup>378</sup>[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

<sup>379</sup>[*Explanation I.*—Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

*Explanation II.*—“Illicit intercourse” has the same meaning as in Section 372.]

**374. Unlawful compulsory labour.**—Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

<sup>380</sup>[**Sexual Offences**]

<sup>381</sup>[**375. Rape.**—A man is said to commit “rape” if he—

(a) penetrates his penis, to any extent, into the vagina, mouth,



urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions—

*First.*—Against her will.

*Secondly.*—Without her consent.

► **Rape.**—Offence of rape is against entire society. It is extremely reprehensible and hated crime which defiles and degrades victim physically as well as mentally and shakes very core of life and dignity, *Anurag Soni v. State of Chhattisgarh*, (2019) 13 SCC 1.

► **Intention/Consent/Mens Rea.**—“Consent” is stated to be an act of reason coupled with deliberation. It denotes an active will in the mind of a person to permit the doing of an act complained of. Inference as to consent can be drawn on the basis of evidence or probabilities of the case, with regard to relevant circumstances, *Kaini Rajan v. State of Kerala*, (2013) 9 SCC 113 : (2013) 3 SCC (Cri) 858.

► **Underage victim.**—Where age of victim was about 14 years at the time of offence, question of consent was of no consequence, *State of H.P. v. Shree Kant Shekari*, (2004) 8 SCC 153.

► **Consensual sexual relationship.**—Court must ascertain whether both parties were ad idem on essential features, *Vinod Kumar v. State of Kerala*, (2014) 5 SCC 678 : (2014) 2 SCC (Cri) 663.

► **Consent of prosecutrix to physical relationship.**—Consent given under misconception of fact is no consent in eyes of law but, misconception of fact, has to be in proximity of time to occurrence, *Maheshwar Tigga v. State of Jharkhand*, (2020) 10 SCC 108.

*Thirdly.*—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

*Fourthly.*—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

*Fifthly.*—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration



by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

*Sixthly.*—With or without her consent, when she is under eighteen years of age.

*Seventhly.*—When she is unable to communicate consent.

*Explanation 1.*—For the purposes of this section, “vagina” shall also include labia majora.

*Explanation 2.*—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

*Exception 1.*—A medical procedure or intervention shall not constitute rape.

<sup>382</sup>[*Exception 2.*—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape].]

► **Sex with minor wife.**—Sexual intercourse with minor (below 18 years) wife is rape. Exception 2 to Section 375 IPC is arbitrary, capricious, whimsical and violative of Article 14, 15 and 21 of the Constitution of India. However, the verdict will apply prospectively, *Independent Thought v. Union of India*, (2017) 10 SCC 800.

Section 198(6) of the CrPC will apply to cases of rape of “wives” below 18 years, and cognizance can be taken only in accordance with the provisions of Section 198(6) of the Code, *Independent Thought v. Union of India*, (2017) 10 SCC 800.

► **Meaning of “consent” with respect to Section 375.**—“Consent” with respect to Section 375 involves an active understanding of circumstances, actions and consequences of proposed act. Individual who makes a reasoned choice to act after evaluating various alternative actions (or inaction) as well as various possible consequences flowing from such action or inaction, consents to such action, *Pramod Suryabhan Pawar v. State Of Maharashtra*, (2019) 9 SCC 608.

► **Consent under misconception of fact.**—While Section 90 of Penal Code does not define term “consent”, “consent” based on a “misconception of fact” is not consent in the eye of law. Thus, in case of woman engaging in sexual relations on false promise to marriage, her “consent” is based on “misconception of fact”, and such sexual act(s) will amount to rape, *Pramod Suryabhan Pawar v. State Of Maharashtra*, (2019) 9 SCC 608, See also *Anurag Soni v. State of Chhattisgarh*, (2019) 13 SCC 1.

## STATE AMENDMENTS

(Made prior to amendment by Central Act 43 of 1983)

Manipur.—In its application to the Union Territory of Manipur, in Section 375—

(a) in clause Fifthly (now Sixthly), for the word “sixteen\*” *substitute* the word “fourteen”; and

(b) in the Exception, for the word “fifteen” *substitute* the word “thirteen”. [*Vide* Act 30 of 1950, S. 3(2) (16-4-1950)]

\* Amended to “eighteen” by Criminal Law (Amendment) Act, 2013 (13 of 2013).

[383](#)[**376. Punishment for rape.**—(1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which [384](#)[shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine].

(2) Whoever,—

(a) being a police officer, commits rape—

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

(g) commits rape during communal or sectarian violence; or

(h) commits rape on a woman knowing her to be pregnant; or

- (i) [385](#) [\* \* \*]  
(j) commits rape, on a woman incapable of giving consent; or  
(k) being in a position of control or dominance over a woman, commits rape on such woman; or  
(l) commits rape on a woman suffering from mental or physical disability; or  
(m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or  
(n) commits rape repeatedly on the same woman,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

*Explanation.*—For the purposes of this sub-section,—

- (a) “armed forces” means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;  
(b) “hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;  
(c) “police officer” shall have the same meaning as assigned to the expression “police” under the Police Act, 1861 (5 of 1861);  
(d) “women's or children's institution” means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.]

[386](#) [(3) Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim.]

► **Rape of young girl children.**—When statutory provisions regarding rape of minor girls and punishment therefor exists under Section 376(2)(i) IPC, Court can neither enhance punishment so provided nor can it create a new offence and

prescribed punishment in that regard. This is a legislative function and Court can only make suggestions to legislature, *Supreme Court Women Lawyers Assn. (SCWLA) v. Union of India*, (2016) 3 SCC 680.

► **Rape or gang rape — Determination.**—A case is not of gang rape, when the evidence does not indicate that the other accused committed rape on the prosecutrix, nor that they shared the common intention to rape nor aided the commission of rape by the person who did commit rape, *Manoj Mishra v. State of U.P.*, (2021) 10 SCC 763.

► **Statement of prosecutrix — Corroboration when required.**—Testimony of the victim in rape cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable, *Sham Singh v. State of Haryana*, (2018) 18 SCC 34.

► **DNA test.**—Traditional “autosomal-STR” DNA analysis vis-à-vis “Y-STR” method of DNA analysis, distinguished. In cases of sexual assault DNA of victim and the perpetrator are often mixed, and, “Y-STR” method provides a unique way of isolating only the male DNA, hence, “Y-STR” method of DNA analysis preferably be followed, *Ravi v. State Of Maharashtra*, (2019) 9 SCC 622.

► **Promiscuity/Habitation to sexual intercourse of prosecutrix.**—Promiscuity/habitation to sexual intercourse of prosecutrix cannot be a ground to justify rape, *State (NCT of Delhi) v. Pankaj Chaudhary*, (2019) 11 SCC 575.

<sup>387</sup>[376-A. Punishment for causing death or resulting in persistent vegetative state of victim.—Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of Section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.]

#### STATE AMENDMENTS

Arunachal Pradesh.—In its application to the State of Arunachal Pradesh, after Section 376-A, the following section shall be *inserted*, namely—

“376-AA. *Punishment for rape on a woman up to twelve years of age.*—Whoever commits rape on a woman up to twelve years of age shall be punished with death, or rigorous imprisonment for a term which shall not be less than fourteen years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.”. [Vide Arunachal Pradesh Act 3 of 2019, S. 8, dt. 2-4-2019].

► **Applicability of Section 376-A as it stood w.e.f. 03-2-2013 as amended**

**by 2013 Ordinance.**—Penal provisions, held, cannot be brought into force with retrospective effect. Thus, held, law as in force as amended by 2013 Ordinance on date of offence would apply. Provisions of 2013 Amendment Act cannot be given retrospective effect as that would violate Article 20(1), *Shatrughna Baban Meshram v. State of Maharashtra*, (2021) 1 SCC 596.

<sup>388</sup>[376-AB. Punishment for rape on woman under twelve years of age.—Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.]

<sup>389</sup>[376-B. Sexual intercourse by husband upon his wife during separation.—Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

*Explanation.*—In this section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of Section 375.]

<sup>390</sup>[376-C. Sexual intercourse by a person in authority.—Whoever, being—

- (a) in a position of authority or in a fiduciary relationship; or
- (b) a public servant; or
- (c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or
- (d) on the management of a hospital or being on the staff of a hospital,

abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

*Explanation 1.*—In this section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of Section 375.

*Explanation 2.*—For the purposes of this section, Explanation 1 to

Section 375 shall also be applicable.

*Explanation 3.*—"Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

*Explanation 4.*—The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in Explanation to sub-section (2) of Section 376.]

<sup>391</sup>[**376-D. Gang rape.**—Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.]

► **Gang rape, Joint liability.**—Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape and all of them shall be liable to be punished under Section 376(2)(Subsequently amended) IPC, *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1.

<sup>392</sup>[**376-DA. Punishment for gang rape on woman under sixteen years of age.**—Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.]

#### STATE AMENDMENTS

Arunachal Pradesh.—In its application to the State of Arunachal Pradesh, after Section 376-D, the following section shall be *inserted*, namely—

"376-DA. *Punishment for gang rape on a woman twelve years of age.*—Where a woman up to twelve years of age, is raped by one or

more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with death, or rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.". [*Vide* Arunachal Pradesh Act 3 of 2019, S. 9, dt. 2-4-2019].

<sup>393</sup>[376-DB. Punishment for gang rape on woman under twelve years of age.—Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine, or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.]

<sup>394</sup>[376-E. Punishment for repeat offenders.—Whoever has been previously convicted of an offence punishable under Section 376 or Section 376-A or <sup>395</sup>[Section 376-AB or Section 376-D or Section 376-DA or Section 376-DB] and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.]

#### STATE AMENDMENTS

Chhattisgarh.—After Section 376-E, the following shall be *inserted*, namely—

"376-F. *Liability of person in-charge of workplace and others to give information about offence.*—Whoever, being person in-charge of any work place or any other person present at such place, having knowledge that an offence under Section 376 or Section 376-D, is being committed at such place and being in a position to prevent commission of such offence fails so, to prevent such offence or to give information of the commission of such offence, to any magistrate or police officer, by any mode, with the intention of screening the offender from legal punishment, shall be liable to be punished for abetment of such offence with imprisonment of either



description which may extend to three years and fine and no such person shall incur any liability for giving such information.

*Explanation.*—Work place includes any mode of transport owned, hired or otherwise engaged by the person in-charge of the work place for the conveyance of the woman, who was subjected to such offence, to and from her residence to such work place.". [Vide Chhattisgarh Act 25 of 2015, S. 5, w.e.f. 21-7-2015]

#### Of unnatural offences

<sup>396</sup>[377. **Unnatural offences.**—Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with <sup>397</sup>[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.

*Explanation.*—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.]

► **Constitutional validity.**—S. 377 Penal Code is unconstitutional being violative of Arts. 21, 14, 15 and 19 of the Constitution insofar as it criminalises consensual sexual acts of adults, irrespective of whether they are heterosexuals or homosexuals belonging to lesbian, gay, bisexual and transgender (LGBT) community or anyone similarly situated. Members of LGBT community or anyone similarly situated are entitled, like all others, to full range of human, fundamental and constitutional rights. However, any act described under S. 377 done between two individuals without consent of one of them and any kind of sexual activity with animal would be penal offence, *Suresh Kumar Koushal v. Naz Foundation*, (2014) 1 SCC 1, is overruled, *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

► **Pederasty.**—Consent of minor boy for pederasty (unnatural intercourse between man and boy) is irrelevant, *Anil v. State of Maharashtra*, (2014) 4 SCC 69 : (2014) 2 SCC (Cri) 266.

### Chapter XVII

#### OF OFFENCES AGAINST PROPERTY

##### Of theft

**378. Theft.**—Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

*Explanation 1.*—A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

*Explanation 2.*—A moving effected by the same act which effects the severance may be a theft.

*Explanation 3.*—A person is said to cause a thing to move by



removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it.

*Explanation 4.*—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

*Explanation 5.*—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

#### *Illustrations*

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft.

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(d) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds a ring lying on the high road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it

to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property inasmuch as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) A, asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorised to give away alms. If this was A's impression, A has not committed theft.

(o) A is the paramour of Z's wife. She gives a valuable property, which A knows to belong to her husband Z, and to be such property as she has no authority from Z to give. If A takes the property dishonestly, he commits theft.

(p) A, in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

**379. Punishment for theft.**—Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

► **Bona fide removal of property.**—The removal of property in the bona fide exercise of right is a good defence, *Survari Sanyasi Apparao v. Boddepalli Lakshminarayana*, 1961 SCC OnLine SC 68.

#### STATE AMENDMENTS

#### SECTION 379-A AND SECTION 379-B

Gujarat.—In its application to the State of Gujarat, after Section 379, the following sections shall be *inserted*, namely:—

“379-A. Snatching.—(1) Whoever, with the intention to commit theft, suddenly or quickly or forcibly seizes or secures or grabs or takes away from any person or from his physical possession any moveable property, and makes or attempt to make escape with such property, is said to commit snatching.

(2) Whoever attempts to commit snatching shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to ten years, and with fine which may extend to twenty five thousand rupees.

(3) Whoever commits snatching shall be punished with rigorous imprisonment for a term which shall not be less than seven years but which may extend to ten years, and with fine which may extend to twenty five thousand rupees.

(4) Whoever, after committing or attempting to commit snatching, causes hurt or wrongful restraint or fear of hurt, in order to effect his escape shall be punished with rigorous imprisonment for a term which may extend to three years, in addition to the punishment provided for the offence of snatching by the preceding sub-sections.

379-B. Snatching after preparation made for causing death, hurt or restraint in order to the committing of the snatching.—Whoever commits or attempts to commit snatching, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such snatching, or in order to the retaining of property taken by such snatching, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but which may extend to ten years, and with fine which may extend to twenty five thousand rupees.”. [Vide Guj. Act 6 of 2019, S. 2, assented on 21-5-2019]

Haryana.—In its application to the State of Haryana, after Section 379, the following sections shall be *inserted*, namely:—

“379-A. Snatching.—(1) Whoever, with the intention to commit theft, suddenly or quickly or forcibly seizes or secures or grabs or takes away from any person or from his possession any moveable property, and makes or attempts to make escape with such property, is said to commit snatching.

Whoever, commits snatching, shall be punished with rigorous imprisonment for a term, which shall not be less than five years but which may extend to ten years, and shall also be liable to fine of Rupees Twenty five thousand.

379-B. Snatching with hurt, wrongful restraint or fear of hurt. Whoever, in order to commit snatching, or in committing the snatching, causes hurt or wrongful restraint or fear of hurt; or after committing the offence of snatching, causes hurt or wrongful restraint or fear of hurt in order to effect his escape, shall be punished with rigorous imprisonment which shall not be less than ten years but which may extend to fourteen years, and shall also be liable to fine of Rupees Twenty five thousand." [Vide Penal Code (Haryana Amendment) Act, 2014 (Haryana Act No. 18 of 2015), S. 2.]

Punjab.—In its application to the State of Punjab, after Section 379, the following sections shall be *inserted*, namely—

"379-A. Snatching.—Whoever, with the intention to commit theft, suddenly or quickly or forcibly seizes or secures or grabs or takes away from any person or from his possession any moveable property, and makes or attempts to make escape with such property, is said to commit snatching.

379-B. Punishment for snatching.—(1) Whoever, commits snatching, shall be punished with imprisonment for a term, which shall not be less than five years, but which may extend to ten years and shall also be liable to fine of rupees ten thousand.

(2) If in order to the committing of snatching, or in committing the snatching, the offender causes hurt, or wrongful restraint or fear of hurt or after committing the offence of snatching, causes hurt or wrongful restraint or fear of hurt in order to effect his escape, shall be punished with imprisonment for a term, which shall not be less than ten years and shall also be liable to fine of rupees ten thousand." [Vide: Punjab Act 31 of 2014, S. 2, dt. 5-11-2014].

Union Territory of Chandigarh.—In its application to the Union Territory of Chandigarh, after Section 379, the following sections shall be *inserted*, namely:—

"379-A. Snatching.—(1) Whoever, with the intention to commit theft, suddenly or quickly or forcibly seizes or secures or grabs or takes away from any person or from his possession any moveable property, and makes or attempts to make escape with such property, is said to commit snatching.

Whoever, commits snatching, shall be punished with rigorous imprisonment for a term, which shall not be less than five years but which may extend to ten years, and shall also be liable to fine of Rupees Twenty five thousand.

379-B. Snatching with hurt, wrongful restraint or fear of hurt. Whoever, in order to commit snatching, or in committing the snatching, causes hurt or wrongful restraint or fear of hurt; or after

committing the offence of snatching, causes hurt or wrongful restraint or fear of hurt in order to effect his escape, shall be punished with rigorous imprisonment which shall not be less than ten years but which may extend to fourteen years, and shall also be liable to fine of Rupees Twenty five thousand." [Vide G.S.R. 383(E), dated 29-5-2019 (w.e.f. 29-5-2019).]

**380. Theft in dwelling house, etc.**—Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

#### STATE AMENDMENTS

Tamil Nadu.—In its application to the State of Tamil Nadu, Section 380 shall be *renumbered* as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be *added*, namely:—

"(2) Whoever commits theft in respect of any idol or icon in any building used as a place of worship shall be punished with rigorous imprisonment for a term which shall not be less than two years but which may extend to three years and with fine which shall not be less than two thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than two years." [Vide Tamil Nadu Act 28 of 1993, S. 2 (w.e.f. 13-7-1993).]

**381. Theft by clerk or servant of property in possession of master.**—Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.**—Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

#### Illustrations

A commits theft on property in Z's possession; and, while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist.

A has committed the offence defined in this section.

A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

► **Possession of arms**—One who keeping a knife with him commits theft may be liable for conviction under Section 382 even though there was no occasion for him to wield the knife or to cause injury, *In re Diwan Singh*, 1979 SCC OnLine MP 153.

#### STATE AMENDMENTS

Tripura.—In its application to the State of Tripura, the following sections shall be *inserted*, namely:—

"382-A. Snatching.—Whoever commits theft stealthily from a person or through assault or by using criminal force and thereby causes hurt or endangers the life of that person is said to commit the offence of 'Snatching'.

382-B. Whoever commits 'Snatching' shall be punished with imprisonment for a term which shall not be less than seven years but may extend to a term of ten years or with fine or with both.

382-C. Vehicle lifting.—Whoever commits theft of a 'vehicle' either from open or close arena, is said to commit the offence of 'vehicle lifting'.

*Note.*—The term 'vehicle' shall have the same meaning as defined in sub-section (28) of Section 2 of Motor Vehicles Act, 1988.

382-D.—Whoever commits the offence of 'vehicle lifting' shall be punished with imprisonment for a term which shall not be less than seven years but may extend to a term of ten years or with fine or with both.

382-E. Cattle lifting.—Whoever commits theft of a 'Cattle' either from open or close arena, is said to commit the offence of 'Cattle lifting'.

*Note.*—For the purpose of this section, the term 'Cattle' means a cow and a calf, whether male or female, bull, bullock, buffalo — male or female or calf of she-buffalo, whether male or female and an ox or oxen.

Whoever commits the offence of 'Cattle lifting' shall be punished with imprisonment for a term which shall not be less than seven years but may extend to a term of ten years or with fine or with both.". [*Vide* Tripura Act 4 of 2019, S. 2 (w.e.f. 29-5-2019)]

#### Of extortion

**383. Extortion.**—Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or

valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion".

#### Illustrations

(a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain money to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

► **Inquiry.**—The injury need not necessarily be physical. Even a terror of a criminal charge whether true or false amounts to a fear of injury, *Habib Khan v. State*, 1951 SCC OnLine Pat 121 : AIR 1952 Pat 379 : 53 Cri LJ 1391.

► **Property.**—The word 'property' in Section 383, IPC means both movable and immovable property, *Hyderabad State v. Beerappa*, 1951 SCC OnLine Hyd 41 : AIR 1951 Hyd 91 : 52 Cri LJ 912 (FB).

**384. Punishment for extortion.**—Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**385. Putting person in fear of injury in order to commit extortion.**—Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**386. Extortion by putting a person in fear of death or grievous hurt.**—Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**387. Putting person in fear of death or of grievous hurt, in order to commit extortion.**—Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.



**388. Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.**—Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with [398](#)[imprisonment for life], or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under Section 377 of this Code, may be punished with [399](#)[imprisonment for life].

**389. Putting person in fear of accusation of offence, in order to commit extortion.**—Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, an offence punishable with death or with [400](#)[imprisonment for life], or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under Section 377 of this Code, may be punished with [401](#)[imprisonment for life].

#### **Of robbery and dacoity**

**390. Robbery.**—In all robbery there is either theft or extortion.

When theft is robbery.—Theft is “robbery” if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

When extortion is robbery.—Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

*Explanation.*—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

#### **Illustrations**

(a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful

restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence, A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees". This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

**391. Dacoity.**—When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity".

► **Commission of dacoity.**—When a known person is desperate and very much inimical, he can go to commit dacoity without taking the usual precaution of covering his face, *Chandra Bhan v. State*, 1980 SCC OnLine All 474 : 1981 Cri LJ 196.

**392. Punishment for robbery.**—Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

**393. Attempt to commit robbery.**—Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

**394. Voluntarily causing hurt in committing robbery.**—If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with [402](#)[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**395. Punishment for dacoity.**—Whoever commits dacoity shall be punished with [403](#)[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**396. Dacoity with murder.**—If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, everyone of those persons shall be punished with death, or [404](#) [imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

► **Dacoity.**—A person can be convicted for dacoity if the dacoity itself, and his role in guarding the house from the outside with another accused, while dacoity was being committed inside the house by other accused, stood established, *Raju Manjhi v. State of Bihar*, (2019) 12 SCC 784.

**397. Robbery or dacoity, with attempt to cause death or grievous hurt.**—If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

**398. Attempt to commit robbery or dacoity when armed with deadly weapon.**—If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

► **Reduction of sentence.**—Reduction of sentence, to less than the prescribed minimum impermissible, *Parveen v. State of Haryana*, (2016) 3 SCC 129.

**399. Making preparation to commit dacoity.**—Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**400. Punishment for belonging to gang of dacoits.**—Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with [405](#) [imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**401. Punishment for belonging to gang of thieves.**—Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

**402. Assembling for purpose of committing dacoity.**—Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be

punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

#### **Of criminal misappropriation of property**

**403. Dishonest misappropriation of property.**—Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

#### *Illustrations*

(a) A takes property belonging to Z out of Z's possession in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(c) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

*Explanation 1.*—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

#### *Illustration*

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

*Explanation 2.*—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it; it is

sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found.

#### *Illustrations*

(a) A finds a rupee on the high road, not knowing to whom the rupee belongs. A picks up the rupee. Here A has not committed the offence defined in this section.

(b) A finds a letter on the road, containing a banknote. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.

(e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

**404. Dishonest misappropriation of property possessed by deceased person at the time of his death.**—Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

#### *Illustration*

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

#### **Of criminal breach of trust**

**405. Criminal breach of trust.**—Whoever, being in any manner entrusted with property, or with any dominion over property,

dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust".

[406](#)[*Explanation* [407](#)[1].—A person, being an employer [408](#)[of an establishment whether exempted under Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), or not] who deducts the employee's contribution from the wages payable to the employee for credit to a Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

[409](#)[*Explanation 2*.—A person, being an employer, who deducts the employees' contribution from the wages payable to the employee for credit to the Employees' State Insurance Fund held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948 (34 of 1948), shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

#### *Illustrations*

(a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(b) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

(c) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.

(d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(e) A, a revenue officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

► **Essential ingredients.**—To constitute an offence of criminal breach of trust, it is essential to prove first of all that the accused was entrusted with some property or with any dominion or power over it. Dishonest misappropriation or dishonest conversion, use or disposal of entrusted property, in violation of a direction of law or legal contract must be established, *C.M. Narayan v. State of T.C.*, (1952) 2 SCC 392. See also *Sardar Singh v. State of Haryana*, (1977) 1 SCC 463.

► **Criminal breach of trust.**—Where accused being himself owner of property, transferred it to his wife during subsistence of his contract with developer for constructing flats thereon, it did not constitute criminal breach of trust, *Anand Kumar Mohatta v. State (NCT of Delhi)*, (2019) 11 SCC 706.

► **Criminal breach of trust and cheating.**—Law recognises difference between simple payment/investment of money and entrustment of money or property. Mere breach of promise, agreement or contract does not, ipso facto, constitute offence of criminal breach of trust under Section 405 without there being clear case of entrustment, *Satishchandra Ratanlal Shah v. State of Gujarat*, (2019) 9 SCC 148.

**406. Punishment for criminal breach of trust.**—Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

► **Cheating and forgery.**—When issue as to genuineness of documents, forgery of which was the basis of the criminal proceedings, was pending consideration in civil suit, FIR ought not to have been allowed to continue in this case as it would prejudice the interest of parties and the stand taken by them in the civil suit, *Rajeshbhai Muljibhai Patel v. State of Gujarat*, (2020) 3 SCC 794.

► **Quashing of FIR — Civil dispute in nature.**—A breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest



intention is shown right at the beginning of the transaction. Further, merely the allegation of failure to keep up promise, held, will not be enough to initiate criminal proceedings, *Kunti v. State of U.P.*, (2023) 6 SCC 109.

**407. Criminal breach of trust by carrier, etc.**—Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust, in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**408. Criminal breach of trust by clerk or servant.**—Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**409. Criminal breach of trust by public servant, or by banker, merchant or agent.**—Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with [410](#)[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.

#### Of the receiving of stolen property

**410. Stolen property.**—Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which [411](#)[\* \* \*] [412](#)[\* \* \*] criminal breach of trust has been committed, is designated as “stolen property”, [413](#)[whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without [414](#)[India]]. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

**411. Dishonestly receiving stolen property.**—Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### STATE AMENDMENTS

Tamil Nadu.—In its application to the State of Tamil Nadu, Section 411 shall be *renumbered* as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be

*added, namely:—*

“(2) Whoever dishonestly receives or retains any idol or icon stolen from any building used as a place of worship knowing or having reason to believe the same to be stolen property shall, notwithstanding anything contained in sub-section (1), be punished with rigorous imprisonment which shall not be less than two years but which may extend to three years and with fine which shall not be less than two thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than two years.” [Vide Tamil Nadu Act 28 of 1993, S. 3 (w.e.f. 13-7-1993).]

**412. Dishonestly receiving property stolen in the commission of a dacoity.**—Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with <sup>415</sup>[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**413. Habitually dealing in stolen property.**—Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with <sup>416</sup>[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.

**414. Assisting in concealment of stolen property.**—Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### **Of cheating**

**415. Cheating.**—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

*Explanation.*—A dishonest concealment of facts is a deception within the meaning of this section.

#### **Illustrations**

(a) A, by falsely pretending to be in the Civil Service, intentionally

deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery, A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

► **Essential ingredients.**—Fraudulent or dishonest inducement of a person by deceiving him; deceived person should be induced to deliver any property to any person or to consent that any person shall retain any property; or deceived person was intentionally induced to do or to omit to do anything which he would not do or omit, *Ram Jas v. State of U.P.*, (1970) 2 SCC 740 : 1970 SCC (Cri) 516.

Section 415 has two parts. While in the first part, the person must “dishonestly” or fraudulently induce the complainant to deliver any property; the second part

need not necessarily relate to property, *G.V. Rao v. L.H.V. Prasad*, (2000) 3 SCC 693 : 2000 SCC (Cri) 733.

► **Mens Rea : Dishonest Intention.**—To hold a person guilty of the offence of cheating it has to be shown that his intention was dishonest at the time of making the promise. Such a dishonest intention can be inferred from the mere fact that he could not subsequently fulfil the promise, *State of Kerala v. A.P. Pillai*, (1972) 3 SCC 661 : 1972 SCC (Cri) 705, See also *Raghunath Prasad v. State of Bihar*, (1974) 4 SCC 616 : 1974 SCC (Cri) 652.

► **Damage.**—Loss or damage must be loss or damage which is the proximate result of the act. It must be the natural consequence of the act complained of, *Prem Chand v. State*, 1952 SCC OnLine All 52 : AIR 1953 All 381 : 1953 Cri LJ 815.

► **Status of Admission Card.**—Admission card enabling a candidate to sit in examination is 'property' for the purposes of Section 415, *Abhayanand Mishra v. State of Bihar*, 1961 SCC OnLine SC 67.

► **Criminal breach of trust, fraud and cheating, and, breach of contract simpliciter.**—While breach of contract cannot give rise to criminal prosecution for cheating, fraudulent or dishonest intention is the basis of the offence of cheating, held, this has to be determined in the facts and circumstances of each case, *V. Ravi Kumar v. State*, (2019) 14 SCC 568.

**416. Cheating by personation.**—A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

*Explanation.*—The offence is committed whether the individual personated is a real or imaginary person.

*Illustrations*

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

► **Scope.**—In order to constitute an offence under Section 416 there must be cheating in addition to personation and the personation must be for the purpose of cheating, *State of M.P. v. Padam Singh*, 1972 SCC OnLine MP 87 : 1973 Cri LJ 877.

**417. Punishment for cheating.**—Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.**—Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates,

he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**419. Punishment for cheating by personation.**—Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**420. Cheating and dishonestly inducing delivery of property.**—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

► **Concurrent civil and criminal liability.**—When settlement is arrived at between creditors and debtor, offence, if committed, as such does not come to an end. Even a judgment rendered in civil proceedings, when it is rendered on basis of a settlement entered into between parties, would not be of much relevance in criminal proceedings, having regard to provisions contained in Section 43, Evidence Act. Civil settlement of controversy would not suffice to wipe off criminal liability, *CBI v. Hari Singh Ranka*, (2019) 16 SCC 687.

► **Death of complainant.**—After the death of complainant, the legal heirs of the complainant can prosecute the pending petition, *Chand Devi Daga v. Manju K. Humatani*, (2018) 1 SCC 71 : (2018) 1 SCC (Cri) 264.

#### Of fraudulent deeds and dispositions of property

**421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.**—Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**422. Dishonestly or fraudulently preventing debt being available for creditors.**—Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.**—Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge, any property, or any

interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**424. Dishonest or fraudulent removal or concealment of property.**—Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

#### **Of mischief**

**425. Mischief.**—Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief".

*Explanation 1.*—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

*Explanation 2.*—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

#### *Illustrations*

(a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.

(b) A introduces water into an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(e) A having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(f) A causes a ship to be cast away, intending thereby to cause



damage to Z who has lent money on bottomry on the ship. A has committed mischief.

(g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

► **Wrongful loss.**—To attract Section 425, IPC it must be established that there was wrongful loss or damage to the property in question unless it is proved that property was destroyed or underwent such a change that it diminished the utility or value of the property, *Jaddan v. State*, 1973 Cri LJ 490.

**426. Punishment for mischief.**—Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

**427. Mischief causing damage to the amount of fifty rupees.**—Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**428. Mischief by killing or maiming animal of the value of ten rupees.**—Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.**—Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**430. Mischief by injury to works of irrigation or by wrongfully diverting water.**—Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**431. Mischief by injury to public road, bridge, river or channel.**—Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or



navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**432. Mischief by causing inundation or obstruction to public drainage attended with damage.**—Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**433. Mischief by destroying, moving or rendering less useful a lighthouse or sea-mark.**—Whoever commits mischief by destroying or moving any lighthouse or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such lighthouse, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**434. Mischief by destroying or moving, etc., a landmark fixed by public authority.**—Whoever commits mischief by destroying or moving any landmark fixed by the authority of a public servant, or by any act which renders such landmark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.**—Whoever commits mischief by fire or any explosive substance intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards <sup>417</sup>[or (where the property is agricultural produce) ten rupees 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.

**436. Mischief by fire or explosive substance with intent to destroy house, etc.**—Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with <sup>418</sup>[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.

**437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.**—Whoever commits mischief to any

decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**438. Punishment for the mischief described in Section 437 committed by fire or explosive substance.**—Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with [419](#) [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.

**439. Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.**—Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**440. Mischief committed after preparation made for causing death or hurt.**—Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

#### Of criminal trespass

**441. Criminal trespass.**—Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

is said to commit "criminal trespass".

#### STATE AMENDMENTS

Karnataka.—In its application to the State of Karnataka, for Section 441, the following shall be *substituted*, namely—

"441. *Criminal trespass.*—Whoever enters into or upon property in possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person or with intent to commit an offence,

or, having entered into or upon such property, whether before or

after the coming into force of the Penal Code and the Code of Criminal Procedure (Karnataka Amendment) Act, 2009, with the intention of taking unauthorised possession or making unauthorised use of such property fails to withdraw from such property or its possession or use, when called upon to do so by that another person by notice in writing, duly served upon him, by the date of specified in the notice is said to commit Criminal Trespass". [*Vide* Karnataka Act 40 of 2014, S. 2]

Orissa.—In its application to the State of Orissa, the amendments are same as in Uttar Pradesh except that for the words "whether before or after the coming into force of the Criminal Laws (U.P. Amendment) Act, 1961", read "remains there"; and omit "by the date specified in the notice,". [*Vide* Orissa Act 22 of 1986 (w.e.f. 6-12-1986).]

Uttar Pradesh.—In its application to the State of Uttar Pradesh, for Section 441, the following shall be *substituted*:—

"441. *Criminal Trespass*.—Whoever enters into or upon property in possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

or having entered into or upon such property, whether before or after the coming into force of the Criminal Laws (U.P. Amendment) Act, 1961, with the intention of taking unauthorised possession or making unauthorised use of such property fails to withdraw from such property, or its possession or use when called upon to do so by that another person by notice in writing, duly served upon him, by the date specified in the notice, is said to commit 'criminal trespass'." [*Vide* U.P. Act 31 of 1961]

442. *House-trespass*.—Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

*Explanation*.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. *Lurking house-trespass*.—Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass".

444. *Lurking house-trespass by night*.—Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night".

**445. House-breaking.**—A person is said to commit “house-breaking” who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:—

*First.*—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

*Secondly.*—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

*Thirdly.*—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

*Fourthly.*—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

*Fifthly.*—If he effects his entrance or departure by using criminal force or committing an assault or by threatening any person with assault.

*Sixthly.*—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

*Explanation.*—Any outhouse or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

#### *Illustrations*

(a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(b) A commits house-trespass by creeping into a ship at a porthole between decks. This is house-breaking.

(c) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(f) A finds the key of Z's house door, which Z had lost and commits

house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(g) Z is standing in the doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(h) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

**446. House-breaking by night.**—Whoever commits house-breaking after sunset and before sunrise, is said to commit “house-breaking by night”.

**447. Punishment for criminal trespass.**—Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**448. Punishment for house-trespass.**—Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**449. House-trespass in order to commit offence punishable with death.**—Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with [420](#) [imprisonment for life], or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

**450. House-trespass in order to commit offence punishable with imprisonment for life.**—Whoever commits house-trespass in order to the committing of any offence punishable with [421](#) [imprisonment for life], shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

**451. House-trespass in order to commit offence punishable with imprisonment.**—Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description of a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

**452. House-trespass after preparation for hurt, assault or wrongful restraint.**—Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**453. Punishment for lurking house-trespass or house-breaking.—**Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

**454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.—**Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

#### STATE AMENDMENTS

Tamil Nadu.—In its application to the State of Tamil Nadu, Section 454 shall be *renumbered* as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be *added*, namely:—

“(2) Whoever commits lurking house-trespass or house-breaking in any building used as a place of worship, in order to the committing of the offence of theft of any idol or icon from such building, shall notwithstanding anything contained in sub-section (1), be punished with rigorous imprisonment which shall not be less than three years but which may extend to ten years and with fine which shall not be less than five thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three years.” [*Vide* Tamil Nadu Act 28 of 1993, S. 4 (w.e.f. 13-7-1993).]

**455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.—**Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**456. Punishment for lurking house-trespass or house-breaking by night.—**Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.—**Whoever commits

lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

#### STATE AMENDMENTS

Tamil Nadu.—In its application to the State of Tamil Nadu, Section 457 shall be *renumbered* as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be *added*, namely:—

“(2) Whoever commits lurking house-trespass by night or house-breaking by night in any building used as a place of worship, in order to the committing of the offence of theft of any idol or icon from such building, shall, notwithstanding anything contained in sub-section (1), be punished with rigorous imprisonment which shall not be less than three years but which may extend to fourteen years and with fine which shall not be less than five thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three years.” [*Vide* Tamil Nadu Act 28 of 1993, S. 5 (w.e.f. 13-7-1993).]

**458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.**—Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

**459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.**—Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with [422](#)[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.**—If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such



lurking house-trespass by night or house-breaking by night, shall be punished with [423](#)[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.

**461. Dishonestly breaking open receptacle containing property.**—Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**462. Punishment for same offence when committed by person entrusted with custody.**—Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

### Chapter XVIII

#### OF OFFENCES RELATING TO DOCUMENTS AND TO [424](#)[\* \* \*] PROPERTY MARKS

**463. Forgery.**—Whoever makes any false documents [425](#)[or false electronic record] or part of a document [426](#)[or electronic record,] with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

► **Conviction for making of false document.**—Section 463 defines offence of forgery, while Section 464 substantiates the same by providing answer as to when a false document could be said to have been made for the purpose of committing offence of forgery under Section 463. Therefore, Section 464 defines one of ingredients of forgery i.e. making of false document. Charge of forgery cannot be imposed on/sustained against a person who is not the maker of false document in question. Making of a document is different than causing it to be made, *Sheila Sebastian v. R. Jawaharaj*, (2018) 7 SCC 581.

**464. Making a false document.**—[427](#)[A person is said to make a false document or false electronic record—

*First.*—Who dishonestly or fraudulently—

- (a) makes, signs, seals or executes a document or part of a document;
- (b) makes or transmits any electronic record or part of any electronic record;

- (c) affixes any [428](#)[electronic signature] on any electronic record;
- (d) makes any mark denoting the execution of a document or the authenticity of the [429](#)[electronic signature],

with the intention of causing it to be believed that such document or part of a document, electronic record or [430](#)[electronic signature] was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

*Secondly.*—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with [431](#)[electronic signature] either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

*Thirdly.*—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his [432](#)[electronic signature] on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.]

#### *Illustrations*

(a) A has a letter of credit upon B for Rs 10,000, written by Z. A, in order to defraud B, adds a cipher to the 10,000 and makes the sum 1,00,000 intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A, without Z's authority affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase money. A has committed forgery.

(c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorises B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the

bill with intent to deceive the banker by leading him to suppose that he had the security of *B*, and thereby to discount the bill, *A* is guilty of forgery.

(f) *Z*'s will contains these words—"I direct that all my remaining property be equally divided between *A*, *B* and *C*." *A* dishonestly scratches out *B*'s name, intending that it may be believed that the whole was left to himself and *C*. *A* has committed forgery.

(g) *A* endorses a Government promissory note and makes it payable to *Z* or his order by writing on the bill the words "Pay to *Z* or his order" and signing the endorsement. *B* dishonestly erases the words "Pay to *Z* or his order", and thereby converts the special endorsement into a blank endorsement. *B* commits forgery.

(h) *A* sells and conveys an estate to *Z*. *A* afterwards, in order to defraud *Z* of his estate, executes a conveyance of the same estate to *B*, dated six months earlier than the date of the conveyance to *Z*, intending it to be believed that he had conveyed the estate to *B* before he conveyed it to *Z*. *A* has committed forgery.

(i) *Z* dictates his will to *A*. *A* intentionally writes down a different legatee from the legatee named by *Z*, and by representing to *Z* that he has prepared the will according to his instructions, induces *Z* to sign the will. *A* has committed forgery.

(j) *A* writes a letter and signs it with *B*'s name without *B*'s authority, certifying that *A* is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from *Z* and other persons. Here, as *A* made a false document in order to induce *Z* to part with property, *A* has committed forgery.

(k) *A* without *B*'s authority writes a letter and signs it in *B*'s name certifying to *A*'s character, intending thereby to obtain employment under *Z*. *A* has committed forgery inasmuch as he intended to deceive *Z* by the forged certificate, and thereby to induce *Z* to enter into an express or implied contract for service.

*Explanation 1.*—A man's signature of his own name may amount to forgery.

#### *Illustrations*

(a) *A* signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. *A* has committed forgery.

(b) *A* writes the word "accepted" on a piece of paper and signs it with *Z*'s name, in order that *B* may afterwards write on the paper a bill of exchange drawn by *B* upon *Z*, and negotiate the bill as though it had been accepted by *Z*. *A* is guilty of forgery; and if *B*, knowing the fact, draws the bill upon the paper pursuant to *A*'s intention, *B* is also guilty

of forgery.

(c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable; here A has committed forgery.

(d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

*Explanation 2.*—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

*Illustration*

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

<sup>433</sup>[*Explanation 3.*—For the purposes of this section, the expression “affixing <sup>434</sup>[electronic signature]” shall have the meaning assigned to it in clause (d) of sub-section (1) of Section 2 of the Information Technology Act, 2000.]

NOTE ► Section 2(1)(d) of the Information Technology Act, 2000 defines “affixing digital signature” as follows:

“(d) ‘affixing digital signature’ with its grammatical variations and cognate expressions means adoption of any methodology or procedure by a person for the purpose of authenticating an electronic record by means of digital signature.”

**465. Punishment for forgery.**—Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**466. Forgery of record of Court or of public register, etc.**—Whoever

forges a document <sup>435</sup>[or an electronic record], purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>436</sup>[*Explanation*.—For the purposes of this section “register” includes any list, data or record of any entries maintained in the electronic form as defined in clause (r) of sub-section (1) of Section 2 of the Information Technology Act, 2000.]

NOTE ► Section 2(1)(r) of the Information Technology Act, 2000 defines “electronic form” as follows:

“(r) ‘electronic form’ with reference to information means any information generated, sent, received or stored in media, magnetic, optical, computer memory, microfilm, computer-generated micor fiche or similar device.”

**467. Forgery of valuable security, will, etc.**—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with <sup>437</sup>[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.

**468. Forgery for purpose of cheating.**—Whoever commits forgery, intending that the document <sup>438</sup>[or electronic record] forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**469. Forgery for purpose of harming reputation.**—Whoever commits forgery, intending that the document <sup>439</sup>[or electronic record] forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**470. Forged document** <sup>440</sup>[or electronic record].—A false document

[441](#)[or electronic record] made wholly or in part by forgery is designated "a forged document [442](#)[or electronic record]".

**471. Using as genuine a forged document [443](#)[or electronic record].—**Whoever fraudulently or dishonestly uses as genuine any document [444](#)[or electronic record] which he knows or has reason to believe to be a forged document [445](#)[or electronic record], shall be punished in the same manner as if he had forged such document [446](#)[or electronic record].

► **Opinion by court.**—The offence covered by Section 471, IPC from its very nature must be committed in the proceeding itself by a party thereto. With respect to such an offence expression of opinion by the court as to the expediency of prosecution would serve a useful purpose, *Patel Laljibhai Somabhai v. State of Gujarat*, (1971) 2 SCC 376.

**472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under Section 467.**—Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under Section 467 of this Code, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with [447](#)[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.**—Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than Section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**474. Having possession of document [448](#)[or electronic record] described in Section 466 or 467, knowing it to be forged and intending to use it as genuine.**—[449](#)[Whoever has in his possession any document or electronic record, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as a genuine, shall, if the document or electronic record is one of the description mentioned in Section 466 of this Code,] be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description

mentioned in Section 467, shall be punished with [450](#)[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**475. Counterfeiting device or mark used for authenticating documents described in Section 467, or possessing counterfeit marked material.**—Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in Section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with [451](#)[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**476. Counterfeiting device or mark used for authenticating documents other than those described in Section 467, or possessing counterfeit marked material.**—Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document [452](#)[or electronic record] other than the documents described in Section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.**—Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secrets or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with [453](#)[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

[454](#)[**477-A. Falsification of accounts.**—Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, [455](#)[electronic record,] paper, writing, valuable



security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, <sup>456</sup>[electronic record,] paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

*Explanation.*—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.]

Of <sup>457</sup>[\* \* \*] property and other marks

<sup>458</sup>[478. Trade mark.—<sup>459</sup>[\* \* \*]]

<sup>460</sup>[479. Property mark.—A mark used for denoting that movable property belongs to a particular person is called a property mark.]

<sup>461</sup>[480. Using a false trade mark.—<sup>462</sup>[\* \* \*]]

<sup>463</sup>[481. Using a false property mark.—Whoever marks any movable property or goods or any case, package or other receptacle containing movable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.]

<sup>464</sup>[482. Punishment for using a false property mark.—Whoever uses <sup>465</sup>[\* \* \*] any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

<sup>466</sup>[483. Counterfeiting a property mark used by another.—Whoever counterfeits any <sup>467</sup>[\* \* \*] property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.]

<sup>468</sup>[484. Counterfeiting a mark used by a public servant.—Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a

particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.]

[469](#)[485. Making or possession of any instrument for counterfeiting a property mark.—Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a property mark, or has in his possession a property mark for the purpose of denoting that any goods belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

[470](#)[486. Selling goods marked with a counterfeit property mark.—[471](#) [Whoever sells, or exposes, or has in possession for sale, any goods or things with a counterfeit property mark] affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

[472](#)[487. Making a false mark upon any receptacle containing goods.—Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

[473](#)[488. Punishment for making use of any such false mark.—Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.]

[474](#)[489. Tampering with property mark with intent to cause injury.—

Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

#### Of currency-notes and bank-notes

<sup>475</sup>[489-A. Counterfeiting currency-notes or bank-notes.—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with <sup>476</sup>[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.

*Explanation.*—For the purposes of this section and of Sections 489-B, <sup>477</sup>[489-C, 489-D and 489-E], the expression “bank-note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money.

<sup>478</sup>489-B. Using as genuine, forged or counterfeit currency-notes or bank-notes.—Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with <sup>479</sup>[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.

► **Ingredients.**—Mens rea of offences under Sections 489-B and 489-C is “knowing or having reason to believe the currency notes or banknotes are forged or counterfeit”. Without the aforementioned mens rea selling, buying or receiving from another person or otherwise trafficking in or using as genuine forged or counterfeit currency notes or banknotes, is not enough to constitute offence under Section 489-B IPC, *Dipakbhai Jagdishchandra Patel v. State of Gujarat*, (2019) 16 SCC 547.

<sup>480</sup>489-C. Possession of forged or counterfeit currency-notes or bank-notes.—Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

<sup>481</sup>489-D. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.—Whoever makes, or performs any part of the process of making, or buys or sells or disposes

of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with [482](#)[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.]

[483](#)[489-E. Making or using documents resembling currency-notes or bank-notes.—(1) Whoever makes, or causes to be made, or uses for any purpose whatsoever, or delivers to any person, any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, any currency-note or bank-note shall be punished with fine which may extend to one hundred rupees.

(2) If any person, whose name appears on a document the making of which is an offence under sub-section (1), refuses, without lawful excuse, to disclose to a police-officer on being so required the name and address of the person by whom it was printed or otherwise made, he shall be punished with fine which may extend to two hundred rupees.

(3) Where the name of any person appears on any document in respect of which any person is charged with an offence under sub-section (1) or on any other document used or distributed in connection with that document it may, until the contrary is proved, be presumed that that person caused the document to be made.]

#### Chapter XIX

#### OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. Breach of contract of service during voyage or journey.—[484](#)[\* \* \*]

491. Breach of contract to attend on and supply wants of helpless person.—Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

492. Breach of contract to serve at distant place to which servant is conveyed at master's expense.—[485](#)[\* \* \*]

#### Chapter XX

#### OF OFFENCES RELATING TO MARRIAGE

493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.—Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to

him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**494. Marrying again during lifetime of husband or wife.**—Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Exception.*—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

**495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.**—Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**496. Marriage ceremony fraudulently gone through without lawful marriage.**—Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>486</sup>[**497. Adultery.**—Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.]

► **Constitutional Validity.**—Section 497 is struck down as unconstitutional being violative of Articles 14, 15 and 21 of the Constitution. However, if an act of adultery leads to suicide of aggrieved spouse, the adulterous person can be

prosecuted under Section 306 IPC for abetment of suicide, *Joseph Shine v. Union of India*, (2019) 3 SCC 39.

**498. Enticing or taking away or detaining with criminal intent a married woman.**—Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

<sup>487</sup>[Chapter XX-A

#### OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

**498-A. Husband or relative of husband of a woman subjecting her to cruelty.**—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

*Explanation.*—For the purposes of this section, “cruelty” means—

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

► **Constitutional validity.**—Constitutionality of Section 498-A, affirmed, *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443.

► **Cruelty — Essential ingredients.**—To bring home the charge under Section 498-A, held, cruelty is the necessary ingredient which is needed to be proved, *State of Maharashtra v. Ashok Narayan Dandalwar*, (2000) 9 SCC 257.

► **Object.**—Section 498-A was inserted in the statute with an object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman, *Rajesh Sharma v. State of U.P.*, (2018) 10 SCC 472.

► **Misuse of the provision.**—Directions issued to prevent the misuse of Section 498-A. Constitution of Family Welfare Committees; Committee members not to be called as witnesses; no arrest until Committee report received; powers of committee; power of Sessions Judge to settle cases (Set aside in *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443) Directions regarding preliminary enquiry, arrest, investigation, designation and training of investigating officers, bail, impounding of passport, Red Corner Notice, clubbing

of matters, exemption from appearance.(Affirmed with modifications in *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443), *Rajesh Sharma v. State of U.P.*, (2018) 10 SCC 472.

► **Duty of court.**—Duty of court to be careful while proceeding against the distant relatives of the husband that they are not roped in on the basis of omnibus allegations, unless there are specific instances of their involvement, *Kahkashan Kausar v. State of Bihar*, (2022) 6 SCC 599.

## Chapter XXI OF DEFAMATION

**499. Defamation.**—Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

*Explanation 1.*—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

*Explanation 2.*—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

*Explanation 3.*—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

*Explanation 4.*—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

### Illustrations

(a) A says—"Z is an honest man; he never stole B's watch"; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it falls within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.

(c) A draws a picture of Z running away with B's watch intending it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.

First Exception—Imputation of truth which public good



requires to be made or published.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Second Exception—Public conduct of public servants.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception—Conduct of any person touching any public question.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

#### *Illustration*

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.—Publication of reports of proceedings of courts.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

*Explanation.*—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Fifth Exception.—Merits of case decided in Court or conduct of witnesses and others concerned.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

#### *Illustrations*

(a) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further.

(b) But if A says—"I do not believe what Z asserted at that trial because I know him to be a man without veracity"; A is not within this

exception, inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

**Sixth Exception.—Merits of public performance.**—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

*Explanation.*—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

*Illustrations*

(a) A person who publishes a book, submits that book to the judgment of the public.

(b) A person who makes a speech in public, submits that speech to the judgment of the public.

(c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(d) A says of a book published by Z—"Z's book is foolish; Z must be a weak man. Z's book is indecent; Z must be a man of impure mind". A is within the exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further.

(e) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

**Seventh Exception.—Censure passed in good faith by person having lawful authority over another.**—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

*Illustration*

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception.

**Eighth Exception.—Accusation preferred in good faith to authorised per-son.**—It is not defamation to prefer in good faith an

accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

*Illustration*

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

Ninth Exception.—Imputation made in good faith by person for protection of his or other's interests.—It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good.

*Illustrations*

(a) A, a shopkeeper, says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(b) A, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Tenth Exception.—Caution intended for good of person to whom conveyed or for public good.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

► **Constitutional validity.**—Constitutional validity of criminal defamation as offence under Section 499, upheld, *Subramanian Swamy v. Union of India*, (2016) 7 SCC 221.

Criminal defamation as an offence is not violative of fundamental right to freedom of speech and expression under Article 19(1)(a) of the Constitution, being a permissible restriction under Article 19(2), *Subramanian Swamy v. Union of India*, (2016) 7 SCC 221.

► **"Defamation" — Ambit and scope.**—"Defamation" includes both civil and criminal defamation, *Subramanian Swamy v. Union of India*, (2016) 7 SCC 221.

► **Ingredients for offence of defamation.**—A person must make an imputation against another with intention, or knowledge, or having reason to believe and such imputation shall harm the reputation of another by words, either spoken or written, or by sign, or visible representation. Difference between making of imputation and publishing the same- If 'X' tells 'Y' that 'Y' is a criminal — 'X' makes an imputation. However, if 'X' tells 'Z' that 'Y' is a criminal — 'X' publishes the imputation, *Mohd. Abdulla Khan v. Prakash K.*, (2018) 1 SCC 615.

► **Essence of Publication.**—In the context of Section 499, essence of

publication is the communication of defamatory imputation to persons other than the persons against whom the imputation is made, *Mohd. Abdulla Khan v. Prakash K.*, (2018) 1 SCC 615.

► **Truth on defence.**—Truth by itself, not a defence in action for criminal defamation if other ingredients of criminal defamation are present, unless it can be shown that imputation in question though truthful was made for the public good, *Subramanian Swamy v. Union of India*, (2016) 7 SCC 221.

► **Considerability of exception(s) to offence of defamation.**—At the stage the Magistrate considers whether to issue process, he has to form his opinion based on the allegations in the complaint and other material as to whether “sufficient ground for proceeding” exists as distinguished from “sufficient ground for conviction”, which has to be left for determination at the trial and not at the stage when process is issued, *Iveco Magirus Brandschutztechnik GMBH v. Nirmal Kishore Bhartiya*, (2024) 2 SCC 86.

**500. Punishment for defamation.**—Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**501. Printing or engraving matter known to be defamatory.**—Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**502. Sale of printed or engraved substance containing defamatory matter.**—Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

## Chapter XXII

### OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

**503. Criminal intimidation.**—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threats, commits criminal intimidation.

*Explanation.*—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

#### Illustration

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

**504. Intentional insult with intent to provoke breach of the peace.**—

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

[488](#)[505. Statements conducing to public mischief.—[489](#)[(1) Whoever makes, publishes or circulates any statement, rumour or report,—

- (a) with intent to cause, or which is likely to cause, any officer, soldier, [490](#)[sailor or airman] in the Army, [491](#)[Navy or Air Force] [492](#)[of India] to mutiny or otherwise disregard or fail in his duty as such; or
- (b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or
- (c) with intent to incite, or which is likely to incite, any class or community of persons to commcit any offence against any other class or community,

shall be punished with imprisonment which may extend to [493](#)[three years], or with fine, or with both.

[494](#)[(2) Statements creating or promoting enmity, hatred or ill-will between classes.—Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) Offence under sub-section (2) committed in place of worship, etc.—Whoever commits an offence specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

*Exception.*—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it [495](#)[in good faith and] without any such intent as aforesaid.]

**506. Punishment for criminal intimidation.**—Whoever commits the

offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

if threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [496](#) [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

#### STATE AMENDMENTS

Meghalaya.—In its application to the State of Meghalaya, for the existing Section 506, the following shall be *substitution*, namely—

"506. Punishment for criminal intimidation.—Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.—And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term of three years and which may extend to seven years, or with fine, or with both." [Vide: Meghalaya Act 8 of 2014, S. 2 (w.e.f. 7-7-2014)]

**507. Criminal intimidation by an anonymous communication.**—Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

**508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.**—Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one

year, or with fine, or with both.

#### *Illustrations*

(a) A sits dhurna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

**509. Word, gesture or act intended to insult the modesty of a woman.**—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, <sup>497</sup>[shall be punished with simple imprisonment for a term which may extend to three years, and also with fine]

#### STATE AMENDMENTS

Chhattisgarh.—After Section 509, the following shall be *inserted*, namely—

"509-A. *Sexual harassment by relative.*—Whoever, being related to a woman through blood, adoption or marriage, and not being her husband, takes the advantage of his proximity and induces, seduces or threatens such woman with intent to insult her modesty by word, gesture or act shall be punished with rigorous imprisonment which shall not be less than one year but which may extend to five years and shall also be liable to fine.

509-B. *Sexual harassment by electronic modes.*—Whoever, by means of telecommunication device or by any other electronic mode including internet, makes, creates, solicits or initiates the transmission of any comment, request, suggestion, proposal, image or other communication, which is obscene, lewd, lascivious, filthy or indecent with intent to harass or cause or having knowledge that it would harass or cause annoyance or mental agony to a woman shall be punished with rigorous imprisonment for a term which shall not be less than six months but may extend to two years and shall also be liable to fine." [Vide Chhattisgarh Act 25 of 2015, S. 6, w.e.f. 21-7-2015]

**510. Misconduct in public by a drunken person.**—Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.



## Chapter XXIII OF ATTEMPTS TO COMMIT OFFENCES

511. Punishment for attempting to commit offences punishable with im-prisonment for life or other imprisonment.—Whoever attempts to commit an offence punishable by this Code with <sup>498</sup>[imprisonment for life] or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with <sup>499</sup>[imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence], or with such fine as is provided for the offence, or with both.

### *Illustrations*

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

---

<sup>316</sup>. Subs. for "by the G. of I., or by any Govt." by the A.O. 1937.

<sup>317</sup>. The words "Central or any Provincial" *omitted* by the A.O. 1950.

<sup>318</sup>. The words "or the Crown Representative" *omitted* by the A.O. 1948.

<sup>319</sup>. Subs. by Act 8 of 1925, S. 2. Prior to substitution it read as:

"292. *Sale etc. of obscene books.*—Whoever sells or distributes, or imports or prints for sale or hire, or willfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine, or with both.

*Exception.*—This Section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any Temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose."

<sup>320</sup>. Ins. by Act 36 of 1969, S. 2 (w.e.f. 7-9-1969).

<sup>321</sup>. S. 292 was *renumbered* as sub-section (2) of that section by Act 36 of 1969, S. 2 (w.e.f. 7-9-1969).

<sup>322</sup>. Subs. by Act 36 of 1969, S. 2.

<sup>323</sup>. *Subs.* by Act 36 of 1969, S. 2.

<sup>324</sup>. *Subs.* by T.N. Act 30 of 1984, S. 2 (w.e.f. 28-6-1984).

<sup>325</sup>. *Ins.* by T.N. Act 30 of 1984, S. 2 (w.e.f. 28-6-1984).

<sup>326</sup>. *Subs.* by Act 8 of 1925, S. 293.

<sup>327</sup>. *Subs.* by IPC (Amendment) Act, 1969 (36 of 1969), S. 2.

<sup>328</sup>. *Subs.* by Act 3 of 1895, S. 3. Prior to substitution it read as:

"294. *Obscene songs*.—Whoever sings, recites, or utters in or near any public place any obscene songs, ballads, or words, to the annoyance of others, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine, or with both."

<sup>329</sup>. *Ins.* by Act 27 of 1870, S. 10.

<sup>330</sup>. *Subs.* for "not authorised by Government" by the A.O. 1937.

<sup>331</sup>. *Subs.* by Act 3 of 1951, S. 3 and Sch (w.e.f. 1-4-1951). Prior to substitution it read as:  
"a lottery organised by the Central Government or the Government of a Part A State or a Part B State". Earlier, *substituted* for "a State lottery" by the A.O. 1950.

<sup>332</sup>. *Ins.* by Act 25 of 1927, S. 2.

<sup>333</sup>. *Subs.* for "His Majesty's subjects" by the A.O. 1950.

<sup>334</sup>. *Subs.* by Act 41 of 1961, S. 3 (w.e.f. 12-9-1961).

<sup>335</sup>. *Subs.* for "two years" by Act 41 of 1961, S. 3 (w.e.f. 12-9-1961).

<sup>336</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>337</sup>. S. 303 struck down in *Mithu v. State of Punjab*, (1983) 2 SCC 277 : AIR 1983 SC 473 : 1983 SCC (Cri) 405.

<sup>338</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>339</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>340</sup>. *Ins.* by Act 27 of 1870, S. 12.

<sup>341</sup>. *Ins.* by Act 43 of 1986, S. 10 (w.e.f. 19-11-1986).

<sup>342</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>343</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>344</sup>. *Ins.* by Act 27 of 1870, S. 11.

<sup>345</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>346</sup>. *Ins.* by Act 12 of 1891, S. 2 and Sch. II.

<sup>347</sup>. *Subs.* for "and shall also be liable to fine" by Act 8 of 1882, S. 7.

<sup>348</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>349</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>350</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>351</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>352</sup>. *Ins.* by Act 13 of 2013, S. 5 (w.r.e.f. 3-2-2013).

<sup>353</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>354</sup>. *Ins.* by Act 8 of 1882, S. 8.

<sup>355</sup>. *Subs.* by Act 13 of 2013, S. 6 (w.r.e.f. 3-2-2013). Prior to substitution it read as:  
"shall be punished with imprisonment of either description for a term which may extend  
to two years, or with fine, or with both"

<sup>356</sup>. *Ins.* by Act 13 of 2013, S. 7 (w.r.e.f. 3-2-2013).

<sup>357</sup>. *Subs.* for "the States" by Act 3 of 1951, S. 3 and Sch. (w.e.f. 1-4-1951).

<sup>358</sup>. *Subs.* for "the States" by Act 3 of 1951, S. 3 and Sch. (w.e.f. 1-4-1951).

<sup>359</sup>. *Subs.* for "the States" by Act 3 of 1951, S. 3 and Sch. (w.e.f. 1-4-1951).

<sup>360</sup>. *Subs.* for "fourteen" by Act 42 of 1949, S. 2.

<sup>361</sup>. *Subs.* for "sixteen" by Act 42 of 1949.

<sup>362</sup>. *Subs.* for "the States" by Act 3 of 1951, S. 3 and Sch. (w.e.f. 1-4-1951).

<sup>363</sup>. *Ins.* by Act 52 of 1959, S. 2 (w.e.f. 15-1-1960).

<sup>364</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>365</sup>. *Subs.* for "the States" by Act 3 of 1951, S. 3 and Sch.

<sup>366</sup>. *Ins.* by Act 42 of 1993, S. 2 (w.e.f. 22-5-1993).

<sup>367</sup>. *Ins.* by Act 24 of 1995, S. 2.

<sup>368</sup>. *Ins.* by Act 20 of 1923, S. 2.

<sup>369</sup>. *Ins.* by Act 20 of 1923, S. 3.

<sup>370</sup>. *Ins.* by Act 20 of 1923, S. 3.

<sup>371</sup>. *Subs.* for "the States" by Act 3 of 1951, S. 3 and Sch.

<sup>372</sup>. *Ins.* by Act 3 of 1951 (w.e.f. 1-4-1951), S. 3 and Sch..

<sup>373</sup>. *Omitted* by Act 3 of 1951 (w.e.f. 1-4-1951). Prior to omission it read as:  
"and whoever with such intent and knowledge imports into British India from any State in India any such girl who has with the like intent and knowledge been imported into India, whether by himself or by another person"

<sup>374</sup>. *Subs.* by Act 13 of 2013, S. 8 (w.r.e.f. 3-2-2013). Prior to substitution it read as:  
"370. *Buying or disposing of any person as a slave.*—Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

<sup>375</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

<sup>376</sup>. *Subs.* by Act 18 of 1924, S. 2. Prior to substitution it read as:  
"minor under the age of eighteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be"

<sup>377</sup>. *Ins.* by Act 18 of 1924, S. 3.

<sup>378</sup>. *Subs.* by Act 18 of 1924, S. 2. Prior to substitution it read as:  
"minor under the age of eighteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be"

<sup>379</sup>. *Ins.* by Act 18 of 1924, S. 4

<sup>380</sup>. *Subs.* for "Of rape" by Act 43 of 1983, S. 3 (w.e.f. 25-12-1983).

<sup>381</sup>. *Subs.* by Act 13 of 2013, S. 9 (w.r.e.f. 3-2-2013). Prior to substitution it read as:  
"375. *Rape.*—A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:—  
*First.*—Against her will.  
*Secondly.*—Without her consent.  
*Thirdly.*—With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.  
*Fourthly.*—With her consent, when the man knows that he is not her husband, and

that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

*Fifthly.*—With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

*Sixthly.*—With or without her consent, when she is under sixteen years of age.

*Explanation.*—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

*Exception.*—Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape."

<sup>382</sup>. Read down in *Independent Thought v. Union of India*, (2017) 10 SCC 800 in the following terms (at para 197):

"Sexual intercourse or sexual acts by a man with his own wife, the wife not being 18 years, is not rape".

<sup>383</sup>. *Subs.* by Act 13 of 2013, S. 9 (w.r.e.f. 3-2-2013). Prior to substitution it read as:

"376. *Punishment for rape.*—(1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

(2) Whoever,—

(a) being a police officer commits rape—

(i) within the limits of the police station to which he is appointed; or

(ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or

(iii) on a woman in his custody or in the custody of a police officer subordinate to him; or

(b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or

(c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or

(d) being on the management or on the staff of a hospital, takes advantage of his official

position and commits rape on a woman in that hospital; or

(e) commits rape on a woman knowing her to be pregnant; or

(f) commits rape on a woman when she is under twelve years of age; or

(g) commits gang rape,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

*Explanation 1.*—Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.

*Explanation 2.*—“Women's or children's institution” means an institution, whether called an orphanage or a home for neglected women or children or a widows' home or by any other name, which is established and maintained for the reception and care of women or children.

*Explanation 3.*—“Hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.”

<sup>384</sup>. *Subs. by Act 22 of 2018, S. 4(a) (w.r.e.f. 21-4-2018).* Prior to substitution it read as:  
“shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine”

<sup>385</sup>. *Omitted by Act 22 of 2018, S. 4(b) (w.r.e.f. 21-4-2018).* Prior to omission it read as:  
“(f) commits rape on a woman when she is under sixteen years of age; or”

<sup>386</sup>. *Ins. by Act 22 of 2018, S. 4(c) (w.r.e.f. 21-4-2018).*

<sup>387</sup>. *Subs. by Act 13 of 2013, S. 9 (w.r.e.f. 3-2-2013).* Prior to substitution it read as:  
“376-A. *Intercourse by a man with his wife during separation.*—Whoever has sexual intercourse with his own wife, who is living separately from him under a decree of separation or under any custom or usage without her consent shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.”

<sup>388</sup>. *Ins. by Act 22 of 2018, S. 5 (w.r.e.f. 21-4-2018).*

<sup>389</sup>. *Subs. by Act 13 of 2013, S. 9 (w.r.e.f. 3-2-2013).* Prior to substitution it read as:  
“376-B. *Intercourse by public servant with woman in his custody.*—Whoever, being a public servant, takes advantage of his official position and induces or seduces, any woman, who is in his custody as such public servant or in the custody of a public servant subordinate to him, to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either

description for a term which may extend to five years and shall also be liable to fine."

- <sup>390</sup>. *Subs. by Act 13 of 2013, S. 9 (w.r.e.f. 3-2-2013).* Prior to substitution it read as:  
'376-C. *Intercourse by superintendent of jail, remand home, etc.*—Whoever, being the superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution takes advantage of his official position and induces or seduces any female inmate of such jail, remand home, place or institution to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

*Explanation 1.*—"Superintendent" in relation to a jail, remand home or other place of custody or a women's or children's institution includes a person holding any other office in such jail, remand home, place or institution by virtue of which he can exercise any authority or control over its inmates.

*Explanation 2.*—The expression "women's or children's institution" shall have the same meaning as in Explanation 2 to sub-section (2) of Section 376.'

- <sup>391</sup>. *Subs. by Act 13 of 2013, S. 9 (w.r.e.f. 3-2-2013).* Prior to substitution it read as:  
'376-D. *Intercourse by any member of the management or staff of a hospital with any woman in that hospital.*—Whoever, being on the management of a hospital or being on the staff of a hospital takes advantage of his position and has sexual intercourse with any woman in that hospital, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

*Explanation.*—The expression "hospital" shall have the same meaning as in Explanation 3 to sub-section (2) of Section 376.'

- <sup>392</sup>. *Ins. by Act 22 of 2018, S. 6 (w.r.e.f. 21-4-2018).*

- <sup>393</sup>. *Ins. by Act 22 of 2018, S. 6 (w.r.e.f. 21-4-2018).*

- <sup>394</sup>. *Ins. by Act 13 of 2013, S. 9 (w.r.e.f. 3-2-2013).*

- <sup>395</sup>. *Subs. for "Section 376-D" by Act 22 of 2018, S. 7 (w.r.e.f. 21-4-2018).*

- <sup>396</sup>. Partially struck down in *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1. Held unconstitutional by the 5-Judge Constitution Bench to the limited extent as mentioned hereinafter:—

"Section 377 IPC, so far as it penalizes any consensual sexual relationship between two adults, be it homosexuals (man and a man), heterosexuals (man and a woman) or lesbians (woman and a woman), cannot be regarded as constitutional. However, if anyone, by which we mean both a man and a woman, engages in any kind of sexual activity with an animal, the said aspect of Section 377 is constitutional and it shall remain a penal offence under Section 377 IPC. Any act of the description covered under Section 377 IPC done between two individuals without the consent of any one of them would invite penal



liability under Section 377 IPC."

- <sup>397</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- <sup>398</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- <sup>399</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- <sup>400</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- <sup>401</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- <sup>402</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- <sup>403</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- <sup>404</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- <sup>405</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- <sup>406</sup>. *Ins.* by Act 40 of 1973, S. 9 (w.e.f. 1-11-1973).
- <sup>407</sup>. Explanation renumbered as Explanation 1 by Act 38 of 1975, S. 9 (w.e.f. 1-9-1975).
- <sup>408</sup>. *Ins.* by Act 33 of 1988, S. 27 (w.e.f. 1-8-1988).
- <sup>409</sup>. *Ins.* by Act 38 of 1975, S. 9 (w.e.f. 1-9-1975).
- <sup>410</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- <sup>411</sup>. The word "the" *omitted* by Act 12 of 1891, S. 2 and Sch. I.
- <sup>412</sup>. The words "offence of" *omitted* by Act 8 of 1882, S. 9.
- <sup>413</sup>. *Ins.* by Act 8 of 1882, S. 9.
- <sup>414</sup>. *Subs.* for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- <sup>415</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>416</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>417</sup>. *Ins.* by Act 8 of 1882, S. 10.
- <sup>418</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>419</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>420</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).

- <sup>421</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>422</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>423</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>424</sup>. The words "trade or" *omitted* by Act 43 of 1958, S. 135 and Sch. (w.e.f. 25-11-1959).
- <sup>425</sup>. *Ins.* by Act 21 of 2000, S. 91 and Sch. I (w.e.f. 17-10-2000).
- <sup>426</sup>. *Ins.* by Act 21 of 2000, S. 91 and Sch. I (w.e.f. 17-10-2000).
- <sup>427</sup>. *Subs.* by Act 21 of 2000, S. 91 and Sch. I (w.e.f. 17-10-2000).
- <sup>428</sup>. *Subs.* for "digital signature" by Act 10 of 2009, S. 51(e) (w.e.f. 27-10-2009).
- <sup>429</sup>. *Subs.* for "digital signature" by Act 10 of 2009, S. 51(e) (w.e.f. 27-10-2009).
- <sup>430</sup>. *Subs.* for "digital signature" by Act 10 of 2009, S. 51(e) (w.e.f. 27-10-2009).
- <sup>431</sup>. *Subs.* for "digital signature" by Act 10 of 2009, S. 51(e) (w.e.f. 27-10-2009).
- <sup>432</sup>. *Subs.* for "digital signature" by Act 10 of 2009, S. 51(e) (w.e.f. 27-10-2009).
- <sup>433</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>434</sup>. *Subs.* for "digital signature" by Act 10 of 2009, S. 51(e) (w.e.f. 27-10-2009).
- <sup>435</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>436</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>437</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>438</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>439</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>440</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>441</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>442</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>443</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>444</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>445</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

- <sup>446</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>447</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>448</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>449</sup>. *Subs.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>450</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>451</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>452</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>453</sup>. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- <sup>454</sup>. *Ins.* by Act 3 of 1895, S. 4.
- <sup>455</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>456</sup>. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).
- <sup>457</sup>. The word "Trade," *omitted* by Act 43 of 1958, S. 135 and Sch. (w.e.f. 25-11-1959).
- <sup>458</sup>. Earlier *subs.* by Act 4 of 1889, S. 3.
- <sup>459</sup>. *Omitted* by Act 43 of 1958, S. 135 and Sch. Prior to omission it read as:  
'478. *Trade mark*.—For the purposes of this Code, the expression "trade mark" includes a trade mark registered under the Trade Marks Act, 1940 (5 of 1940), and any mark used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right to use the mark.'
- <sup>460</sup>. *Subs.* by Act 4 of 1889, S. 3. Prior to substitution it read as:  
'479. *Property Mark*.—A mark used for denoting that moveable property belongs to a particular person, is called "a property mark".'
- <sup>461</sup>. Earlier *subs.* by Act 4 of 1889, S. 3.
- <sup>462</sup>. *Omitted* by Act 43 of 1958, S. 135 and Sch. Earlier S. 480 was *substituted* by Act 4 of 1889, S. 3. Prior to omission it read as:  
"480. *Using a false trade mark*.—Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, have a connection in the course of trade with a person with whom they have not any such connection, is said to use a false trade mark."
- <sup>463</sup>. *Subs.* by Act 4 of 1889, S. 3. Prior to substitution it read as:

"481. *Using a false property mark.*—Whoever marks any moveable property or goods, or any case, package, or other receptacle containing moveable property or goods, or uses any case, package, or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case, package, or other receptacle so marked, belong to a person to whom they do not belong, is said to use a false property-mark."

<sup>464</sup>. Subs. by Act 4 of 1889, S. 3. Prior to substitution it read as:

"482. *Punishment for using false trade or property-mark with intent to deceive or injure any person.*—Whoever uses any false trade-mark or any false property-mark with intent to deceive or injure any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

<sup>465</sup>. The words "any false trade mark or" *omitted* by Act 43 of 1958, S. 135 and Sch. (w.e.f. 25-11-1959).

<sup>466</sup>. Subs. by Act 4 of 1889, S. 3. Prior to substitution it read as:

"483. *Counterfeiting a trade or property-mark used by another.*—Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any trade or property-mark used by any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

<sup>467</sup>. The words "trade mark or" *omitted* by Act 43 of 1958, S. 135 and Sch. (w.e.f. 25-11-1959).

<sup>468</sup>. Subs. by Act 4 of 1889, S. 3. Prior to substitution it read as:

"484. *Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., or any property.*—Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the same is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine."

<sup>469</sup>. Subs. by Act 43 of 1958, S. 135 and Sch. (w.e.f. 25-11-1959). Earlier *substituted* by Act 4 of 1889, S. 3. Prior to substitution it read as:

"485. *Fraudulent making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade-mark.*—Whoever makes or has in his possession any die, plate, or other instrument for the purpose of making or counterfeiting any public or private property or trade-mark with intent to use the same for the purpose of counterfeiting such mark, or has in his possession any such property or trade-mark with intent that the same shall be used for the purpose of denoting that any goods or merchandize were made or manufactured by any particular person or firm, by whom they were not made, or at a time or place at which they were not made, or that

they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

<sup>470</sup>. Subs. by Act 4 of 1889, S. 3. Prior to substitution it read as:

"486. *Knowingly selling goods marked with a counterfeit property or trade-mark.*—Whoever sells any goods with a counterfeit property or trade-mark, whether public or private, affixed to or impressed upon the same or upon any case, wrapper, or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to or impressed upon any goods or merchandize not manufactured or made by the person or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure, or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

<sup>471</sup>. Subs. by Act 43 of 1958, S. 135 and Sch. Prior to substitution it read as:

"Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark"

<sup>472</sup>. Subs. by Act 4 of 1889, S. 3. Prior to substitution it read as:

"487. *Fraudulently making a false mark upon any package or receptacle containing goods.*—Whoever fraudulently makes any false mark upon any package or receptacle containing goods, with intent to cause any public servant or any other person to believe that such package or receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

<sup>473</sup>. Subs. by Act 4 of 1889, S. 3. Prior to substitution it read as:

"488. *Punishment for making use of any such false mark.*—Whoever fraudulently makes use of any such false mark with the intent last aforesaid, knowing such mark to be false, shall be punished in the manner mentioned in the last preceding Section."

<sup>474</sup>. Subs. by Act 4 of 1889, S. 3. Prior to substitution it read as:

"489. *Defacing any property-mark with intent to cause injury.*—Whoever removes, destroys, or defaces any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

<sup>475</sup>. Ins. by Act 12 of 1899, S. 2.

<sup>476</sup>. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).

<sup>477</sup>. Subs. for "489-C and 489-D" by Act 35 of 1950.

<sup>478</sup>. Ins. by Act 12 of 1899, S. 2.

<sup>479</sup>. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).

<sup>480</sup>. Ins. by Act 12 of 1899, S. 2.

<sup>481</sup>. Ins. by Act 12 of 1899, S. 2.

<sup>482</sup>. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).

<sup>483</sup>. Ins. by Act 6 of 1943, S. 3.

<sup>484</sup>. Omitted by the Act 3 of 1925, S. 2 and Sch. Prior to omission it read as:

"490. *Breach of contract of service during a voyage or journey.*—Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person, or any property, from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

#### *Illustrations*

(a) A, a palanquin bearer, being bound by legal contract to carry Z from one place to another, runs away in the middle of the stage. A has committed the offence defined in this section.

(b) A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another throws the baggage away. A has committed the offence defined in this Section.

(c) A, a proprietor of bullocks, being bound by legal contract to convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this section.

(d) A by unlawful means compels B, a cooly, to carry his baggage. B in the course of the journey puts down the baggage and runs away. Here as B was not lawfully bound to carry the baggage, he has not committed any offence.

*Explanation.*—It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly, by the person who is to perform the service.

#### *Illustration*

A contracts with a Dāk Company to drive his carriage for a month. B employs the Dāk Company to convey him on a journey, and during the month the Company supplies B with a carriage which is driven by A. A in the course of the journey voluntarily leaves the carriage. Here although A did not contract with B, A is guilty of an offence under this section."

<sup>485</sup>. Omitted by the Act 3 of 1925, S. 2 and Sch. Prior to omission it read as:

"492. *Breach of contract to serve at a distant place to which the servant is conveyed*

*at the master's expense.*—Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman or laborer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both; unless it shall appear that the employer has ill-treated him or neglected to perform the contract on his part.”.

<sup>486.</sup> *Held unconstitutional and struck down in Joseph Shine v. Union of India, (2019) 3 SCC 39 : See Case Law.*

<sup>487.</sup> *Ins.* by Criminal Law (Second Amendment) Act, 1983 (Act 46 of 1983), S. 2.

<sup>488.</sup> *Subs.* by Act 4 of 1898, S. 6. Prior to substitution it read as:

“505. *False statement, rumours, etc. circulated with intent to cause mutiny, or offences against the public peace.*—Whoever circulates or publishes any statement, rumour, or report, which he knows to be false, with intent to cause any officer, soldier, or sailor in the Army or Navy of the Queen to mutiny, or with intent to cause fear or alarm to the public and thereby to induce any person to commit an offence against the state or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

<sup>489.</sup> S. 505 was *renumbered* as sub-section (1) of that section by Act 35 of 1969, S. 3.

<sup>490.</sup> *Subs.* for “or sailor” by Act 10 of 1927, S. 2 and Sch. I.

<sup>491.</sup> *Subs.* for “or navy” by Act 10 of 1927, S. 2 and Sch. I.

<sup>492.</sup> *Subs.* for “of Her Majesty or in the Imperial Service Troops” by the A.O. 1950. The words “or in the Royal Indian Marine” occurring after the word “Majesty” were *omitted* by Act 35 of 1934.

<sup>493.</sup> *Subs.* for “two years” by Act 41 of 1961, S. 4 (w.e.f. 12-9-1961).

<sup>494.</sup> *Ins.* by Act 35 of 1969, S. 3(i) (w.e.f. 4-9-1969).

<sup>495.</sup> *Ins.* by Act 35 of 1969, S. 3(ii) (w.e.f. 4-9-1969).

<sup>496.</sup> *Subs.* for “transportation” by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).

<sup>497.</sup> *Subs.* by Act 13 of 2013, S. 10 (w.r.e.f. 3-2-2013). Prior to substitution it read as:  
“shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both”



<sup>498</sup>. Subs. for "transportation" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).

<sup>499</sup>. Subs. by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956). Prior to substitution it read as:

"transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence"

Disclaimer: While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.