

## **THE INDIAN PENAL CODE**

### **CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY OF OFFENCES AFFECTING LIFE**

#### **Of Wrongful Restraint and Wrongful Confinement**

**[s 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.**

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### **CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY OF OFFENCES AFFECTING LIFE**

#### **Of Wrongful Restraint and Wrongful Confinement**

**[s 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 that 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.**

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### **CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY OF OFFENCES AFFECTING LIFE**

#### **Of Wrongful Restraint and Wrongful Confinement**

##### **[s 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.

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#### **Of Wrongful Restraint and Wrongful Confinement**

**[s 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.**

#### **COMMENT.—**

This and the next section may be compared with sections 329 and 330, as the aggravating circumstances mentioned in the former are the same as those in the latter.

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### CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY OF OFFENCES AFFECTING LIFE

#### Of Wrongful Restraint and Wrongful Confinement

**[s 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.

#### COMMENT.—

This section may be compared with section 330. In the former case confession is extorted by wrongful confinement; in the latter, by causing hurt. To prove an offence under this section it is not necessary to show that a formal arrest was made. It is enough if it is shown that the person was prevented from proceeding beyond certain circumscribed limits.<sup>959</sup> Evidence showed that deceased died of multiple injuries and such injuries were caused when deceased was in illegal custody of accused. Accused was held liable to be convicted under sections 348 and 304 Part II of IPC, 1860.<sup>960</sup>

<sup>959</sup>. *State of HP v Ranjit Singh*, 1979 Cr LJ (NOC) 210 (HP).

<sup>960</sup>. *State of AP v G Veereshalinga*, 2011 Cr LJ 1991 (AP); *Anup Singh v State of HP*, AIR 1995 SC 1941 : 1995 Cr LJ 3223 ; *Ajay Kumar Singh v State (NCT of Delhi)*, 2007 Cr LJ 3545 (Del). Order framing charge against the accused was held proper.

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### CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY OF OFFENCES AFFECTING LIFE

#### Of Criminal Force and Assault

##### [s 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.

#### COMMENT.—

'Force' as defined in clause (1) contemplates the presence of the person to whom it is used, that is to say, it contemplates the presence of the person using the force and of the person to whom the force is used.<sup>961.</sup>

<sup>961.</sup> *Bihari Lal*, (1934) 15 Lah 786, 789.

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### **CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY OF OFFENCES AFFECTING LIFE**

#### **Of Criminal Force and Assault**

##### **[s 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 act on 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 Z 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 a 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.

### COMMENT.—

The preceding section defines 'force'. This section says that 'force' becomes criminal (1) when it is used without consent and in order to the committing of an offence, or (2) when it is intentionally used to cause injury, fear or annoyance to another to whom the force is used. To attract the definition of 'criminal force' under [section 350 IPC, 1860](#), there must be intentional use of force on any person, without that person's consent. Such force must have been used for committing an offence, or intending 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 on whom the force is used. In other words, the criminal force contemplated under this section is intended to mean criminal force as applied to a person and not as applied to an inanimate object or substance.<sup>962</sup> A person is said to use force when he causes motion or change of motion or cessation of motion to another person or the above in substance, which brings it into contact with any part of the other person's body or with anything that the other is wearing or carrying, or with anything so situated that such contact affects other's sense of feeling. This should be done by his own bodily power or by use of some substance or by inducing any animal to change this motion. The use of force will become criminal when it is done against the consent of any person with the intention of committing an offence or to cause injury, fear or annoyance to any person. In this case admittedly no assault was resorted to.<sup>963</sup>

The term 'criminal force' includes what in English law is called 'battery'. It will, however, be remembered that 'criminal force' may be so slight as not to amount to an offence (section 95), and it will be observed that 'criminal force' does not include anything that the doer does by means of another person. The definition of 'criminal force' is so wide as to include force of almost every description of which a person is the ultimate object.

### [s 350.1] Ingredients.—

The section requires—

- (1) The intentional use of force to any person.
- (2) Such force must have been used without the person's consent.
- (3) The force must have been used—



- (a) in order to the committing of an offence; or
- (b) with the intention to cause, or knowing it to be likely that he will cause, injury, fear or annoyance to the person to whom it is used.

**[s 350.2] Illustrations.—**

The various illustrations exemplify the different ingredients of the definition of 'force' given in section 349. Illustration (a) exemplifies 'motion'; ill. (b), 'change of motion'; ill. (c), 'cessation of motion'; ill. (d), (e), (g) and (h), 'bring that substance into contact with any part of that other's body'; ill. (j) and (g) 'other's sense of feeling'. Clause 1 of section 349 is illustrated by ill. (c), (d), (e), (f) and (g); clause 2 by ill. (a); and clause 3, by ill. (b) and (h).

The petitioners had picked up or snatched the ballot papers from the custody and possession of the public servants. They had even torn the same in this process. It was held that they used criminal force.<sup>964.</sup>

<sup>962.</sup> *Devaki Amma v State*, [1981 Ker LT 475](#) .

<sup>963.</sup> *S P Mallik v State of Orissa*, [1982 Cr LJ 19](#) (Pat)

<sup>964.</sup> *Bhupinder Singh v State of Punjab*, [1997 Cr LJ 3416](#) (PH).

## THE INDIAN PENAL CODE

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#### Of Criminal Force and Assault

##### [s 351] Assault.

Whoever makes any gesture, or any preparation<sup>1</sup> intending or knowing it<sup>2</sup> 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.

##### COMMENT.—

It is not every threat, when there is no actual personal violence that constitutes an assault; there must, in all cases, be the means of carrying the threat into effect. If a person is advancing in a threatening attitude, with an intention to strike another so that his blow will almost immediately reach the other, if he is not stopped, then this is an assault in point of law, though at the particular moment when he is stopped, he is not near enough for his blow to take effect.<sup>965</sup> In order to constitute assault it is not necessary that there should be some actual hurt caused. A threat constitutes assault.<sup>966</sup> Pointing a loaded pistol at another is undoubtedly an assault within the meaning of this section and as such punishable under [section 352 IPC, 1860](#) though not under [section 307 IPC, 1860](#).<sup>967</sup> In this connection see also sub-para entitled, "attempt to discharge loaded firearm" under section 307 *ante*.

##### [s 351.1] Ingredients.—