

could not be inferred. Accordingly, his conviction from under sections 302/34 was converted to one under section 340.⁹¹⁷ The driver of a bus purposely made his bus stand across the road in such a manner as to prevent another bus, which was coming from behind, to proceed further. It was held that the driver of the first bus was guilty of wrongful restraint.⁹¹⁸ Where the tenants of a housing society converted an open space within the compound into a garden and cordoned it, this offence was held to have been committed and though the accused were companies, they could be prosecuted under this section and section 447.⁹¹⁹ Their conduct caused obstruction to the free movement of other members.

[s 339.3] No wrongful restraint.—

Where a person obstructs a private pathway claimed by way of a right of easement over his land and which right was not admitted, he does not commit the offence of wrongful restraint.⁹²⁰ The obstruction under this section has to be to a person and not to an empty car.⁹²¹ Where at the behest of a constable the accused stopped some carts in which rice was being carried by some persons in the *bona fide* belief that the rice was being smuggled out, they could not be held liable under [section 341, IPC, 1860](#) even if suspicion ultimately proved to be incorrect, for they would still get the protection of [section 79, IPC, 1860](#) that is, mistake of fact.⁹²² Where a tenant was partially obstructed from entering the premises by the closure of one of the door leaves, it was held that it did not amount to wrongful restraint as he was still free to enter the premises.⁹²³ The wife of the complainant was working as a teacher in a school. The complainant, a judicial officer, was staying in the quarter allotted to her in the school compound till he was posted to some other place. Thereafter, he used to visit his family and was permitted to park his car at a particular place but he was prevented from using the main gates of the school. He was not restrained from using the passage leading to the school premises where his wife was allotted residential quarter. It was held that criminal restraint to a 'person' is punishable but not any obstruction for plying/parking of a vehicle at a particular place.⁹²⁴ Where the *Sarvodaya* workers prevented visitors from entering a liquor shop, it cannot be held an offence under [section 339 IPC, 1860](#).⁹²⁵

The word "voluntarily" connotes direct physical restraint. There should be restriction on the normal movement of a person. In this case, the accused person had decided on behalf of a limited company to get a road repaired and the repair, if carried out, might have caused some inconvenience to the complainant, it was held that there was no offence under sections 339 and 341.⁹²⁶

[s 339.4] Matter of civil nature.—

The right of a co-sharer to enjoy the joint family property is a civil right. Where such right is denied by other co-shares for one reason or another, the Court said that it should be enforced by taking recourse to remedies available under the civil laws, criminal proceedings cannot be resorted to for such purposes.⁹²⁷

907. Note M, p 154.
908. *Saminada Pillai*, (1882) 1 Weir 339.
909. *Keki Hormusji Gharda v Mehervan Rustom Irani*, (2009) 6 SCC 475 [LNIND 2009 SC 1276] : AIR 2009 SC 2594 [LNIND 2009 SC 1276] .
910. P 59.
911. *Vijay Kumari v SM Rao*, AIR 1996 SC 1058 : 1996 Cr LJ 1371 . In the instant case after termination of the licence, the teacher had lost her right to enter the room of the hostel.
912. *Bharat Kishormal Shah v State of Maharashtra*, 2010 Cr LJ 4088 (Bom).
913. *Noor Mohamed Alias Mohd v Nadirshah Ismailshah Patel*, 2004 Cr LJ 985 (Bom).
914. *Paritosh Chowdhury v Sipra Banerjee*, 1988 Cr LJ 1299 (Cal).
915. *Nripendra Nath Basu v Kisen Bahadur*, (1952) 1 Cal 251 .
916. *Re Shanmugham*, 1971 Cr LJ 182 .
917. *Har Vansh Singh v State of UP*, 1993 Cr LJ 3059 (All).
918. *Abraham v Abraham*, (1950) Mad 858.
919. *Sanghi Motors (Bom) Ltd v MT Shinde*, 1989 Cr LJ 684 Bom. Section 447 punishes criminal trespass.
920. *Basam Bhowmick*, AIR 1963 Cal 3 [LNIND 1962 CAL 48] .
921. *Shankarlal*, 1975 Cr LJ 1077 (Gau).
922. *Keso Sahu*, 1977 Cr LJ 1725 (Ori).
923. *Sankar Chandra Ghose*, 1981 Cr LJ 1002 (Cal).
924. *Rita Wilson v State of HP*, 1992 Cr LJ 2400 (HP).
925. *Narayanan v State*, 1986 Ker LT 1265 .
926. *Keki Hormusji Gharda v Mehervan Rustom Irani*, (2009) 6 SCC 475 [LNIND 2009 SC 1276] : 2009 Cr LJ 3733 .
927. *Rajinder Singh Katoch v Chandigarh Admn*, (2007) 10 SCC 69 [LNIND 2007 SC 1233] : AIR 2008 SC 178 [LNIND 2007 SC 1233] .

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

Of Wrongful Restraint and Wrongful Confinement

[s 340] Wrongful confinement.

Whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings¹ beyond certain circumscribing limits,² is said "wrongfully to confine" that person.

ILLUSTRATIONS

- (a) A causes Z to go within a walled space, and locks Z in. A 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.

COMMENT.—

Wrongful confinement, which is a form of wrongful restraint, is keeping a man within limits out of which he wishes to go, and has a right to go.⁹²⁸

[s 340.1] Ingredients.—

The section requires—

- (1) Wrongful restraint of a person.
- (2) Such restraint must prevent that person from proceeding beyond certain circumscribing limits. The offence of wrongful confinement as defined under section 340 of the Code occurs when individual is wrongfully restrained in such a manner as to prevent him/her from proceeding beyond certain circumscribing limits.⁹²⁹

[s 340.2] Wrongful confinement and wrongful restraint.—

From the definition, it is evident that 'wrongful confinement' is a species of 'wrongful restraint' as defined in [section 339 IPC, 1860](#). While, in 'wrongful restraint', there is only a partial suspension of one's liberty, 'wrongful confinement' reflects total suspension of liberty beyond certain prescribed limits. The period of suspension is immaterial for constituting an offence of 'wrongful confinement' or 'wrongful restraint'. When a person is restrained and is prevented from going, where he has a right to go, the restraint

becomes wrongful if such restraint is not in exercise of any right, power or authority under any law.^{930.}

1. 'Prevent that person from proceedings'.—The restraining of a person in a particular place or compelling him to go in a particular direction by force of an exterior will overpowering or suppressing in any way his own voluntary action is an imprisonment on the part of him who exercises that exterior will.^{931.} There can be no wrongful confinement when a desire to proceed has never existed, nor can a confinement be wrongful if it was consented to by the person affected.^{932.} Mere insistence by words of mouth or mere sitting around a person would not satisfy the requirements of the offence of wrongful confinement which requires that there must be voluntary obstruction to that person so as to prevent that person from proceeding in any direction in which that person has a right to proceed.^{933.} To support a charge of wrongful confinement proof of actual physical restriction is not essential. It is sufficient if such evidence shows that such an impression was produced on the mind of the victim as to create a reasonable apprehension in his or her mind that he or she was not free to depart and that he or she would be forthwith seized or restrained if he or she attempted to do so.^{934.}

2. 'Certain circumscribing limits'.—

A prison may have its boundary, large or narrow, visible and tangible, or, though real still in the conception only; it may itself be moveable or fixed: but a boundary it must have; and that boundary the party imprisoned must be prevented from passing; he must be prevented from leaving that place, within the ambit of which the party imprisoning would confine him, except by prison-breach. Some confusion seems to me to arise from confounding imprisonment of the body with mere loss of freedom: it is one part of the definition of freedom to be able to go whithersoever one pleases; but imprisonment is something more than the mere loss of this power; it includes the notion of restraint within some limits defined by a will or power exterior to our own.^{935.}

[s 340.3] Forced to walk.—

Where a person was forced to walk under duress to a particular direction, it amounted to an offence of wrongful confinement. An act by which a person is prevented from proceeding towards a particular direction is an offence under the section.^{936.}

[s 340.4] Moral force.—

Detention through the exercise of moral force, without the accompaniment of physical force or actual conflict, is sufficient to constitute this offence.^{937.}

[s 340.5] Period of confinement.—

The time during which a person is kept in wrongful confinement is immaterial, except with reference to the extent of punishment.^{938.}

[s 340.6] Remedy of compensation under writ of *habeas corpus*.—

Freedom from detention and compensation for wrongful detention, it has been held, can be ordered under writ of *habeas corpus*; however, the Court added that the remedy under [section 340 IPC, 1860](#) cannot be treated as an alternative or substitute for remedy of *habeas corpus*. It is only an additional remedy.^{939.}

[s 340.7] Compensation for unauthorised detention.—

The petitioner was detained by an order passed by the Judicial Magistrate, First Class whereas the authority for order of detention vested with the State or Central Government. It was held that the said detention, being without authority of law, amounted to wrongful confinement. The detention was quashed and the detenu was granted a compensation of Rs. 3,000.^{940.}

[s 340.8] CASES.—Wrongful confinement.—

Where two police-officers arrested without warrant a person who was drunk and creating disturbance in a public street, and confined him in the police-station though one of them knew his name and address and it was not found to what extent he was a danger to others or their property, it was held that the arrest having been made by the police-officers without warrant, for a non-cognizable offence, their action amounted to wrongful confinement unless it was justified on the ground of right of private defence or under section 81 as was, in fact, held by the Court.^{941.} Though an illegal search in violation of the provisions of [section 165 Cr PC, 1973](#) can be resisted, there is no justification for bodily lifting and bringing back the Investigating Officer after he has left the house and to confine and threaten him till he gives a written statement that he has searched the house of the appellant. It was held that by such acts the accused had committed offences of wrongful confinement and assaulting a public servant within the meaning of [sections 342 and 353, IPC, 1860](#).^{942.} A police officer arrested and detained a person in the *thana* lock-up despite production of a bail order from the Court. It was held that the officer was clearly guilty of an offence under [section 342 IPC, 1860](#).^{943.}

[s 340.9] Custody of child.—

It is an incorrect proposition of law that a father would never be held liable for offence of wrongful 'confinement' if he detains the child by having snatched her away from the mother, who, under some authority of law, had, at the time of snatching, the custody of the child and is entitled to have custody of the child. When a minor is kept against the will of the person, who has the custody of such a child and/or who is entitled to take the custody of the child, such detention would amount to 'wrongful confinement'. In such a case, it is the will of the person, who is entitled to have custody of such a child, which will be the will of the child, for, the child's willingness or 'consent' would be immaterial unless the welfare of the child, in a given case, demands removal of the child from the custody of the person, who is, otherwise, entitled to keep the custody of the child. Guardian and custodian are not synonymous with each other. Thus, even when a parent, who, with impunity, snatches away a child from the lawful custody of the other parent, who held such custody and who is entitled to have the custody of the child under the law—personal, statutory or otherwise—such snatching away of the child and his detention against the will of the parent in whose custody the child was, would amount to an offence of 'wrongful confinement'.^{944.}

[s 340.10] No wrongful confinement.—

Where the wife who has attained the age of 21 stated before the Court that she was not detained by her parents against her will, there was no wrongful confinement and as such the *habeas corpus* petition by the husband could not succeed.^{945.}

928. Note M, p 154.

929. *Subhash Krishnan v State of Goa*, (2012) 8 SCC 365 [LNIND 2012 SC 480] : AIR 2012 SC 3003 [LNIND 2012 SC 480] .

930. *Piyush Chamaria v Hemanta Jitani*, 2012 Cr LJ 2306 (Gau).

931. *Parankusam v Stuart*, (1865) 2 MHC 396 ; *SA Hamid v Sudhirmohan Ghosh*, (1929) 57 Cal 102 .

932. *Muthammad Din*, (1893) PR No. 36 of 1894.

933. *Lilabati Kanjilal*, 1966 Cr LJ 838 .

934. *Bhagwat v State*, 1971 Cr LJ 1222 . See further, *Rabinarayan Das v State of Orissa*, 1992 Cr LJ 269 (Ori), where the court added that an essential ingredient of the offence is that the accused should have wrongfully restrained the complainant and such restraint was to prevent the complainant from proceeding beyond certain circumscribing limits.

935. *Per Coleridge, J*, in *Birid v Jones*, (1845), QB 742, 744.

936. *Nania Nanuram v State of MP*, 1995 Cr LJ 1870 (MP). The court also said that a person charged with murder can be convicted under section 341 or 342.

937. *Venkatachala Mudali*, (1881) 1 Weir 341.

938. *Suprosunno Ghosaul*, (1866) 6 WR (Cr) 88. Taking away a girl for rape was held to be a confinement of this kind and punished as such, sentence of three years RI was held to be not excessive, *Periyasami Re*, 1995 Cr LJ 1203 (Mad).

939. *Poovan v SI of Police*, 1993 Cr LJ 2183 (Ker).

940. *Paothing Tangkhul v State of Nagaland*, 1993 Cr LJ 2514 .

941. *Gopal Naidu*, (1922) 46 Mad 605 (FB).

942. *Shyamlal*, 1972 Cr LJ 638 : AIR 1972 SC 886 [LNIND 1972 SC 100] . *Shamshuddeen v State of Kerala*, 1989 Cr LJ 2068 , the accused confining the two police officers who rescued a person from his confinement, no leniency shown in sentencing. *D Ramalinga Reddy v D Babu*, 1999 Cr LJ 2918 (AP), wrongful restraint. *Samir Saha v State of Assam*, 1998 Cr LJ 1360 (Gau) proof of actual physical restriction is not necessary; *Sanji Ladha v State of Gujarat*, 1998 Cr LJ 2746 (Guj).

943. *Dharmu*, 1978 Cr LJ 864 (Ori).

944. *Piyush Chamaria v Hemanta Jitani*, 2012 Cr LJ 2306 (Gau).

945. *Madhu Bala*, 1982 Cr LJ 555 (SC) : AIR 1982 SC 938 .

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Of Wrongful Restraint and Wrongful Confinement

[s 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.

COMMENTS.—

The only allegation relating to section 341 was that accused stood in front of victim in such a manner that she had to move backward. From such act alone it cannot be said that he "wrongfully restrained" her within the meaning of [section 339, IPC, 1860](#) to make him liable under [section 341, IPC, 1860](#).⁹⁴⁶ Accused, appellant caught the victim from behind, pushed her on ground, removed her panty and made an attempt to rape. Evidence of victim was found consistent. She specifically stated that upon getting opportunity she kicked in testicles of accused and escaped from place of occurrence. Conviction under section 341 and section 511 of 376 was upheld.⁹⁴⁷ Accused with 2–3 other persons restricted the deceased on way and an axe blow was given by first accused on the head of the deceased and that was resisted by patting hands ahead. Consequent to the blow aforesaid he received an injury near his ear. A *lathi* blow then was given by second accused on the head of the deceased, consequent to which he fell down and then he was severely beaten by the accused. Deceased succumbed to the injuries sustained. Conviction under sections 302 and 341 was upheld.⁹⁴⁸

⁹⁴⁶. *Rupan Deol Bajaj v Kanwar Pal Singh Gill*, [AIR 1996 SC 309](#) [[LNIND 1995 SC 981](#)] : (1995) 6 SCC 194 [[LNIND 1995 SC 981](#)] .

⁹⁴⁷. *Rajesh Vishwakarma v State of Jharkhand*, [2011 Cr LJ 2753](#) (Jha); *Amar Soni v State of Jharkhand*, [2010 Cr LJ 4003](#) (Jha)—Acid attack.

⁹⁴⁸. *Natha v State of Rajasthan*, [2013 Cr LJ 1905](#) (Raj).

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Of Wrongful Restraint and Wrongful Confinement

[s 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.

COMMENT.—

Section 342, IPC, 1860 is not confined to offences against public servants but is a general section and makes a person who wrongfully restrains another, guilty of the offence under that section. A wrongful confinement is a wrongful restraint in such a manner as to prevent that person from proceeding beyond a certain circumscribed limits. This offence has nothing to do with the investigation or search.⁹⁴⁹ The essential ingredients of the offence "wrongful confinement" are that the accused should have wrongfully confined the complainant and such restraint was to prevent the complainant from proceeding beyond certain circumscribed limits beyond which he/she has a right to proceed. The factual scenario clearly establishes commission by the appellant as well of the offence punishable under section 342 IPC, 1860.⁹⁵⁰ Confinement need not necessarily be a confinement where the person is physically held within a certain circumscribed limit. To support the charge of wrongful confinement, proof of actual physical obstruction is not essential. It is the condition of the mind of the person confined, having regard to the circumstances that leads him to reasonably believe that he was not free to move and that he would be forthwith restrained if he attempted to do so.⁹⁵¹

Where a man, illegally taken into police custody was beaten by the police and he committed suicide, the accused police officials were punished under section 342. Case under sections 352 and 302 was not made out.⁹⁵² Wife suffered a blow of hammer on left side below ear and immediately died on spot. Accused husband convicted under section 342 and 302 IPC, 1860.⁹⁵³ Victim after being arrested was kept in police station for three days and was not produced before a Magistrate within 24 hours. SHO cannot be absolved from the charges under section 342.⁹⁵⁴ In *Vadamalai v Syed Thastha Keer*,⁹⁵⁵ the complainant was allegedly detained and beaten by appellant/police officials in Police Station but the evidence does not show that he was kept in police station for four days. Conviction of the appellant by High Court under sections 323, 342 held not sustainable and liable to be set aside.

The officers who visited the house of the accused for making inquiry under Money Lenders Act, were not allowed to go out of the house for some time. It was found that there was no apprehension in their mind about use of force in case they tried to move out. It was held that no offence under section 342 was made out.⁹⁵⁶

949. *Shyam Lal Sharma v State of MP*, AIR 1972 SC 886 [LNIND 1972 SC 100] : (1972) 1 SCC 764 [LNIND 1972 SC 100] .

950. *Raju Pandurang Mahale v State of Maharashtra*, AIR 2004 SC 1677 [LNIND 2004 SC 194] : (2004) 4 SCC 371 [LNIND 2004 SC 194] .

951. *Mrityunjay Kumar v State*, 2010 Cr LJ 44 (Sik).

952. *State v Balkrishna*, 1992 Cr LJ 1872 (Mad).

953. *Daulat Singh v State of Rajasthan*, 2013 Cr LJ 1797 (Raj); *Subhash Krishnan v State*, (2012) 8 SCC 365 [LNIND 2012 SC 480] : AIR 2012 SC 3003 [LNIND 2012 SC 480] — Every ingredients of section 342 and section 364 is clearly made out; *Baby v State*, (2012) 11 SCC 362 [LNINDU 2012 SC 11] —The sentences imposed under section 376, section 506 (ii) and 342 IPC, 1860 were maintained; *Elavarasan v State*, AIR 2011 SC 2816 [LNIND 2011 SC 604] : (2011) 7 SCC 110 [LNIND 2011 SC 604] — Conviction under section 304–Part II and 342.

954. *Central Bureau of Investigation v Kishore Singh*, (2011) 6 SCC 369 [LNIND 2010 SC 1033] : (2011) 2 SCC (Cr) 970 : AIR 2011 SC (Supp) 584.

955. *Vadamalai v Syed Thastha Keer*, (2009) 3 SCC 454 [LNIND 2009 SC 304] : AIR 2009 SC 1956 [LNIND 2009 SC 304] .

956. *State of Gujarat v Keshavlal Maganbhai Jogani*, 1993 Cr LJ 248 (Guj). *Veena Rangnekar v State of Maharashtra*, 2000 Cr LJ 2443 , death by electrocution in the house let to the tenant. Police team came in with permission to check new wiring. They were obstructed in their work of taking photographs and not allowed to leave the house for sometime. Guilty under the section. *Suresh N Bhusare v State of Maharashtra*, 1998 Cr LJ 4559 (SC) conviction set aside because the victim girl had gone voluntarily and not lifted and confined. Also see *Suresh Balkrishna Nakhava v State of Maharashtra*, 1998 Cr LJ 284 (Bom); *Shivraj Chandrappa Yadav v State of Maharashtra*, 1998 Cr LJ 3168 (Bom). *Raju Pandurang Mahale v State of Maharashtra*, (2004) 4 SCC 371 [LNIND 2004 SC 194] : AIR 2004 SC 1677 [LNIND 2004 SC 194] : 2004 Cr LJ 1441 , brought into a house under a false pretence, locked from outside, the victim could go out only next day, offence under the section made out.

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

Of Wrongful Restraint and Wrongful Confinement

[s 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.

COMMENT.—

Whoever wrongfully confines any person for three days or more shall be punished under this section. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribed limits is said to 'wrongfully confine' that person, as defined under [section 340, IPC, 1860](#). Use of physical force is not necessary for the offence of wrongful confinement. A mere detention of a person against law would attract [section 343, IPC, 1860](#).⁹⁵⁷.

[s 343.1] Sanction.—

Since illegal detention and the assault made against the first respondent by the petitioner did not form part of the official duty of the petitioner and, therefore, there was no necessity to obtain prior sanction under [section 197, Cr PC, 1973](#).⁹⁵⁸.

⁹⁵⁷. *A Azeez v Pasam Hari Babu*, [2003 Cr LJ 2462](#) (AP).

⁹⁵⁸. *A Azeez v Pasam Hari Babu*, [2003 Cr LJ 2462](#) (AP).