

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act, may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised.

The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

COMMENT.—

This section indicates the limits within which the right of private defence should be exercised.

[s 99.1] First clause.—

This clause applies to those cases in which the public servant is acting in good faith under colour of his office, though the particular act being done by him may not be justifiable by law.⁴⁰⁵ Where officers of Delhi Municipal Corporation acting in good faith by virtue of powers delegated to them by the Commissioner attempted to seize the buffalo of the accused with a view to recover arrears of milk tax, the mere fact that no prior notice was issued to the accused as required by the Municipal Act would not make their act entirely outside the law and as such accused had no private defence under section 99 of the Code. The officers had merely erred in exercise of their powers.⁴⁰⁶ The clause applies to a case where an official has done wrongly, what he might have done rightly, but not to cases where the act could not have been done rightly at all by the official concerned.⁴⁰⁷ The clause applies where a public servant acts irregularly in the exercise of his powers, and not where he acts outside the scope of his powers.⁴⁰⁸ Where a police officer acting *bona fide* under colour of his office arrests a person but without authority, the person so arrested has no right of self-defence against the officer.⁴⁰⁹ If the act of a public servant is *ultra vires* the right of private defence may be exercised against him.⁴¹⁰ A police-officer, holding a search, without a written authority, cannot be said to be acting 'under colour of his office'.⁴¹¹

[s 99.2] CASES.—Resistance to officer acting without warrant.—

A police-officer attempted without a search-warrant to enter a house in search of property alleged to have been stolen and was obstructed and resisted. It was held that, even though the officer was not strictly justified in searching the house without a warrant, the person obstructing and resisting could not set up the illegality of the officer's proceeding as a justification of his obstruction, as it was not shown that the officer was acting otherwise than in good faith and without malice.⁴¹² Where a raiding party organized by the official of the Municipal Corporation to round up stray cattle within the limits of the Corporation, was attacked when it had rounded up some cattle and was leading the cattle to the cattle pound, it was held that the act of the raiding party was fully justifiable by law and that the accused had no right of private defence.⁴¹³ Where a party was fired at to dispel them from their attempt to rescue their friend from an illegal police detention, it was held that this was sufficient to cause reasonable apprehension in their mind of death or grievous injury.⁴¹⁴

[s 99.3] Illegal attachment does not justify resistance.—

Where articles protected from attachment were attached, it was held that this act did not justify resistance.⁴¹⁵ Where the property of a person was wrongfully attached as the property of certain absconders, it was held that the rightful owner had no right of private defence of his property, as the police-officer was acting in good faith under colour of his office, and that even supposing the order of attachment might not have been properly made, that would in itself not be sufficient ground for such a defence.⁴¹⁶

[s 99.4] Second clause.—

The first clause speaks of acts done by a public servant, this clause, of acts done under the direction of a public servant. It is not necessary that the doer should be a public servant. Explanation 2 must be read conjointly with this clause.

[s 99.5] CASE.—Resistance to execution of warrant.—

Where a police-officer attempted to execute a warrant the issue of which was illegal, it was held that the accused were justified in their resistance.⁴¹⁷

[s 99.6] Third clause.—

The third clause of this section must be read with the first clause of section 105.⁴¹⁸ It places an important restriction on the exercise of the right of defence. The right of private defence being granted for defence only, it must not and cannot legally be exercised when there is time to have recourse to the protection of public authorities. The right of private defence does not take the place of the functions of those public servants who are especially charged with the protection of life and property and the apprehension of offenders, and where the assistance of the public authorities can be procured, the right cannot be lawfully exercised. But the law does not intend that a person must run away to have recourse to the protection of public authorities when he is attacked instead of defending himself.⁴¹⁹ A person in possession cannot be

expected to leave his property at the mercy of armed trespassers. Where there is imminent danger to the property and the person in possession apprehends substantial damage thereto, he is entitled to raise his own arms in defence and retaliate to keep away the attack without applying for State aid.⁴²⁰ Where the accused was in rightful possession of the property by virtue of a Court order; under [section 145 Cr PC, 1973](#), he had every right to throw out the complainant party from the land and demolish the construction stealthily put up thereon.⁴²¹ The important considerations which always arise in order to determine whether the action of the accused is covered by the right of private defence are, first, what is the nature of the apprehended danger, and, second, whether there was time to have recourse to the police authorities, always remembering that when both the parties are determined to fight and go up to the land fully armed in full expectation of an armed conflict in order to have a trial of strength the right of private defence disappears.⁴²²

[s 99.7] CASES.—Time to obtain protection of public authorities.—

The accused received information one evening that the complainants intended to go on his land on the following day, and uproot the corn sown in it. At about three o'clock next morning he was informed that the complainants had entered on his land and were ploughing up the corn. Thereupon he at once proceeded to the spot, followed by the remaining accused, and remonstrated with the complainants, who commenced an attack on the accused. In the fight which ensued, both sides received serious injuries, and the leader of the complainants' party was killed. It was held that the complainants being the aggressors, the accused had the right of private defence and that they were not bound to act on the information received on the previous evening and seek the protection of the public authorities, as they had no reason to apprehend a night attack on their property.⁴²³ In a case involving an old land dispute, one party (accused) offered resistance to prevent the other from ploughing the land and on refusal went up to the place where the other was sitting without arms and inflicted stick blows causing death, it was held that the accused was rightly convicted. The Court said that a rightful owner can defend his possession against any attempt to dislodge him, but that once a trespasser has established his foothold; resort should be had to public authorities.⁴²⁴

The right of private defence does not extend to inflicting of more harm than necessary for the purpose of defence. The prosecution party, in this case, had gone to plough the land which was in the possession of the accused (appellant). The latter had time to go and report the matter to appropriate authorities constituted under the law. But instead of so doing, they brutally attacked the other party resulting in the death of three persons. Thus, there was no right of private defence. It was held that there was no warrant for converting the conviction from u/section 302 to section 304 Part II.⁴²⁵

[s 99.8] Fourth clause.—

The right of private defence is restricted to not inflicting more harm than it is necessary to inflict for the purpose of defence. The amount of force necessarily depends on the circumstances of the case, and there is no protection if the harm is caused by excessive violence quite unnecessary to the case.⁴²⁶ For example, a person set by his master to watch a garden or yard is not at all justified in shooting at, or injuring in any way, persons who may come into those premises, even in the night. He ought first to see whether he could not take measures for their apprehension.⁴²⁷ The measure of self-defence must always be proportionate to the *quantum* of force used by the attacker and which it is necessary to repel.⁴²⁸ In dealing with the question as to

whether more force is used than is necessary or than was justified by the prevailing circumstances, it would be inappropriate to adopt tests of detached objectivity of a Court room. The means which a threatened person adopts or the force which he uses should not be weighed in golden scales.⁴²⁹ Though a person exercising his right of private defence is not expected to modulate his defence step by step or tier by tier, yet it is necessary to see that it is not totally disproportionate to the injury sought to be averted, e.g., to ward off a slap one cannot fire a gun. Thus, where the father of the accused was allegedly assaulted with *lathis* which resulted in simple injuries, the accused was not justified in firing his gun and thereby killing the attacker. In such a case it could not be said that there was a reasonable apprehension of death or grievous hurt within the meaning of clause (1) of [section 100, IPC, 1860](#).⁴³⁰ But at the same time it should also be remembered that if a man has real justification to exercise his right of private defence, he cannot be held liable if he slightly exceeds his right of private defence, e.g., where face to face with a murderous attack he fires two shots in quick succession, for these things cannot be weighed in golden scales.⁴³¹ The right of private defence should not be allowed to be pleaded or availed of as pretext for a vindictive, aggressive or retributive purpose.⁴³²

[s 99.9] CASES.—Justifiable harm.—

A party attempted to rescue a friend from unlawful police detention. Three rounds were fired to dispel them. This caused in their mind a reasonable apprehension of death or injury. They tried to snatch the police gun. A police informer intervened and died of injuries received in the process. The right of private defence was held to be not exceeded.⁴³³ In another case the Supreme Court accepted the defence version that there were four assailants who had come well prepared to assault at the door of their house. In such a situation accused persons could have a reasonable apprehension of death or at least of grievous hurt. It was a case of single gunshot which was not repeated. Therefore, it cannot be said that the accused persons had exceeded their right of private defence in any manner.⁴³⁴

In view of the fact that the accused was pursued, that he only picked up the weapon when he was chased and that he used it only once, his sentence was reduced to three years and nine months.⁴³⁵

[s 99.10] Attack on unarmed persons.—

No right of private defence can exist against an unarmed and unoffending individual,⁴³⁶ where the injury was caused to the victim on the vital parts of the body even though he and the witnesses present at the spot were all unarmed, it was held that the question of acting in self-defence did not arise.⁴³⁷

[s 99.11] Sudden quarrel.—

The right of private defence was held to be not available where the incident of *lathi* blows causing death took place in the course of a sudden fight.⁴³⁸

[s 99.12] More harm caused than necessary.—

Where a person killed a weak old woman found stealing at night,⁴³⁹. where a person caught a thief in his house at night and deliberately killed him with a pick-axe to prevent his escape,⁴⁴⁰. where a number of persons apprehending a thief committing house-breaking strangled him and subjected him to gross maltreatment when he was fully in their power,⁴⁴¹. and where a heavy and mechanically propelled vehicle like a jeep was used as a means or weapon for the exercise of the right of private defence,⁴⁴². the right of private defence was negated.⁴⁴³. Where the injuries suffered by the accused were of simple nature than those caused by him to the deceased persons and he went even to the extent of preventing a witness from carrying the victim to a hospital, it was held that the accused was an aggressor and was, therefore, not entitled to the right of private defence.⁴⁴⁴. Where, on the other hand, two drunk and armed raiders demanded money from the residents of a flat and in face to face with the inmates who resisted them, lost their lives, it being not known which inmate played what role, the Supreme Court held that it could not be said that more harm was caused than was necessary.⁴⁴⁵. Where the accused caused death in order to repel an attack by a party armed with lethal weapons and which had already caused injuries to the accused, it was held that the accused did not exceed his rights as it was not possible for him to have weighed in golden scales in the heat of the moment the number of injuries required to overcome the attack.⁴⁴⁶. Where the accused continued to assault the deceased even after he fell to the ground, the possibility of causing injuries in exercise of his right of private defence was ruled out.⁴⁴⁷.

Where the accused received an injury on his neck first, the right of private defence was held to have arisen. But it was shown that three injuries were caused in return one of them entering deep into the chest and causing death. The right of private defence was held to have been exceeded. The conviction was modified to one under section 304(1).⁴⁴⁸.

1. *Shankar Narayan Bhadolkar v State of Maharashtra*, AIR 2004 SC 1966 [LNIND 2004 SC 1370] : 2004 Cr LJ 1778 : (2005) 9 SCC 71 [LNIND 2004 SC 1370] .
2. The *Indian Evidence Act*, I of 1872, section 105.
3. *Musammat Anandi*, (1923) 45 All 329 ; *Babulal*, 1960 Cr LJ 437 (All).
4. *A K Chaudhary v State of Gujarat*, 2006 Cr LJ 726 (Guj).
5. *A K Chaudhary v State of Gujarat*, 2006 Cr LJ 726 (Guj).
405. *Dalip*, (1896) 18 All 246 , 252.
406. *Kesho Ram*, 1974 Cr LJ 814 : AIR 1974 SC 1158 [LNIND 1974 SC 130] .
407. *Bhairo v State*, 1941 Kar 324 ; *Pagla Baba*, (1957) Cr LJ 769 ; *Ouseph Varkey*, (1964) 1 Cr LJ 592 .
408. *Deoman Shamji*, (1958) 61 Bom LR 30 .
409. *Mohamed Ismail v State*, (1935) 13 Ran 754.
410. *Jogendra Nath Mukerjee*, (1897) 24 Cal 320 ; *Tulsiram v State*, (1888) 13 Bom 168; *Haq Dad*, (1925) 6 Lah 392; *Achhru Ram*, (1925) 7 Lah 104.
411. *Ram Parves*, (1944) 23 Pat 328.
412. *Pukot Kotu*, (1896) 19 Mad 349.

413. *Kanwar Singh*, (1965) 2 Cr LJ 1 : AIR 1965 SC 871 [LNIND 1964 SC 194] .
414. *State of UP v Niyamat*, 1987 3 SCC 434 [LNIND 1987 SC 391] : AIR 1987 SC 1652 [LNIND 1987 SC 391] : 1989 Cr LJ 1881 . See also *Ramji Lal v State of Rajasthan*, 1990 Cr LJ 392 Raj, police party arriving at a village at night to recover a woman and to hand her over to her father, the act being illegal and without jurisdiction, this section did not give protection to the police against resistance by villagers.
415. *Poomalai Udayan*, (1898) 21 Mad 296.
416. *Bhai Lal Chowdhry*, (1902) 29 Cal 417 .
417. *Jogendra Nath Mukerjee*, (1897) 24 Cal 320 .
418. *Narsang Pathabhai*, (1890) 14 Bom 441.
419. *Alingal Kunhinayan*, (1905) 28 Mad 454.
420. *State of Orissa v Rabindranath*, 1973 Cr LJ 1686 (FB-Ori).
421. *Akonti Bora*, 1980 Cr LJ 138 (Gau).
422. *Satnarain Das*, (1938) 17 Pat 607.
423. *Narsang Pathabhai*, (1890) 14 Bom 441; *Pachkauri*, (1897) 24 Cal 686 .
424. *Maguni Charan Pradhan v State of Orissa*, (1991) 71 Cut LT 710 : (1991) 3 SCC 352 [LNIND 1991 SC 191] : 1991 SCC (Cr) 580 : 1991 Cr LR (SC) 463 .
425. *Ritaram Besra v State of Bihar*, (2007) 15 SCC 383 .
426. *Gokool Bowree*, (1866) 5 WR (Cr) 33.
427. *John Scutty v State*, (1824) 1 C & P 319.
428. *Ram Prasad Mahton*, (1919) 4 PLJ 289 , 20 Cr LJ 375.
429. *Jai Dev*, (1963) 1 Cr LJ 495 : AIR 1963 SC 612 [LNIND 1962 SC 249] ; *Amjad Khan*, 1952 Cr LJ 648 : AIR 1952 SC 165 [LNIND 1952 SC 20] ; *Puran Singh*, 1975 Cr LJ 1479 : AIR 1975 SC 1674 [LNIND 1975 SC 174] ; **followed** in *Pattu v State of MP*, (1995) 2 Cr LJ 1970 MP, father and son were entitled to ward off an attack on them while they were digging a water channel on their ground. *Hira*, 1972 Cr LJ 225 : AIR 1972 SC 244 .
430. *State of UP. v Ram Swarup*, 1974 Cr LJ 1035 : AIR 1974 SC 1570 [LNIND 1974 SC 472] . Where both parties raised guns in a quarrel but one of them lowered his gun, even so the other fired at him. No occasion for private defence. Conviction for murder upheld, *Mohd. Yusuf v State of UP*, AIR 1994 SC 1542 [LNIND 1994 SC 126] : (1994) 1 Cr LJ 1631 : 1994 Supp (2) SCC 32 .
431. *Amjad Khan*, *supra*; See also *Jaidev*, *supra* and *Yogendra Morarji*, 1980 Cr LJ 459 : AIR 1980 SC 660 .
432. *Munney Khan*, (1970) 2 SCC 480 [LNIND 1970 SC 338] : AIR 1971 SC 1491 [LNIND 1970 SC 338] .
433. *State of UP v Nyama*, (1987) 3 SCC 434 [LNIND 1987 SC 391] . *State of MP v Mishrilal*, 2003 Cr LJ 2312 (SC) : (2003) 9 SCC 426 [LNIND 2003 SC 390] , the prosecution party and the accused party cause to be engaged in firing against each other. The father, who was one of the accused, received five injuries dangerous to life. The firing accused apprehended danger to the life of his father and fired in self-defence. The accused did not exceed the right of private defence.
434. *State of UP v Gajey Singh*, 2009 Cr LJ 2274 : (2009) 11 SCC 414 [LNIND 2009 SC 437] : (2009) 3 SCC(Cr) 1412.
435. *R v Thompson*, (2001) 1 Cr App R (S) 72 [CA (Crim Div)].
436. *Gurbachan Singh*, 1974 Cr LJ 463 : AIR 1974 SC 496 .
437. *Baitullah v State of UP*, AIR 1997 SC 3946 [LNIND 1997 SC 1322] : 1997 Cr LJ 4644 , *Rukma v Jala*, AIR 1997 SC 3207 : 1997 Cr LJ 4641 , a case which hanged on appreciation of evidence. *Mavila Thamban Nambiar v State of Kerala*, AIR 1997 SC 687 [LNIND 1997 SC 24] : (1997) 1 JT

367 private defence not available because the deceased was unarmed, accused persons armed with a pair of scissors. *Vishal Singh v State of MP*, 1998 Cr LJ 505 : AIR 1998 SC 308 [LNIND 1997 SC 1362] , land dispute, revenue record not clear, accused in possession were fully armed, others came in wholly unarmed and became the victim of attack, private defence not allowed to accused.

438. *Bihari Rai v State of Bihar*, (2008) 15 SCC 778 [LNIND 2008 SC 1927] : AIR 2009 SC 18 [LNIND 2008 SC 1927] : 2009 Cr LJ 340 .

439. *Gokool Bowree*, (1866) 5 WR (Cr) 33.

440. *Durwan Geer*, (1866) 5 WR (Cr) 73. See *Bag*, (1902) PR No. 29 of 1902; *Mammun*, (1916) PR No. 35 of 1916.

441. *Dhununjai Poly*, (1870) 14 WR (Cr) 68.

442. *Marudevi Avva*, 1958 Cr LJ 33 .

443. See also *Madan Mohan Pandey v State of UP*, AIR 1991 SC 769 ; 1991 Cr LJ 467 : 1991 Supp (2) SCC 603 , where the Supreme Court emphasised that the nature of the weapon and the number of shots fired are helpful circumstances in determining excessive use of the right of private defence. Indiscriminate firing here, held right exceeded. For a general study of the subject see, *Stanley Meng Heong Yeo*, Rethinking Goodfaith in Excessive Private Defence, (1988) JILI 443.

444. *Kanhiyalal v State of Rajasthan*, AIR 1989 SC 1515 : 1989 Supp. 2 SCC 263 : 1989 Cr LJ 1482 : 1989 BBCJ 117 : 1990 SCC (Cr) 168.

445. *Kishore Shambudatta Mishra v State of Maharashtra*, AIR 1989 SC 1173 : 1989 Cr LJ 1149 : 1989 SCC (Cr) 464.

446. *Buta Singh v State of Punjab*, AIR 1991 SC 1316 [LNIND 1991 SC 177] : 1991 Cr LJ 1464 : (1991) 2 SCC 612 [LNIND 1991 SC 177] . *Vidya Saran Sharma v Sudarshan Lal*, AIR 1993 SC 2476 : 1993 Cr LJ 3135 (SC), accused injured by the deceased, apprehending further danger he hit back with a single blow which proved fatal, acquittal on the ground of private defence; *Thakarda Hamirji Gajuji v State of Gujarat*, 1992 Cr LJ 3966 (Guj).

447. *Harabailu Kariappa v State of Karnataka*, 1996 Cr LJ 321 (Kant). *Man Bharan Singh v State of MP*, 1996 Cr LJ 2707 (MP) injuries disproportionately severe as against minor injuries, right exceeded, conviction under section 304 Pt. I. *Naranjan Singh v Kuldip Singh*, 1998 Cr LJ 845 : AIR 1998 SC 1490 [LNIND 1997 SC 1574] , the accused was not shown to be present on the spot and, therefore, the question of his exceeding the right of private defence did not arise. *Achhaibar Prasad v State*, 1997 Cr LJ 2666 : 1997 All LJ 705, the accused attacked and fired at a police constable in his bid to arrest him. Right of private defence not available to him.

448. *Udaikumar Pandharinath Jadhav v State of Maharashtra*, (2008) 5 SCC 214 [LNIND 2008 SC 1007] : AIR 2008 SC 2064 [LNIND 2008 SC 1007] : 2008 Cr LJ 2627 .

THE INDIAN PENAL CODE

CHAPTER IV GENERAL EXCEPTIONS

THIS chapter has been framed in order to obviate the necessity of repeating in every penal clause a considerable number of limitations.

The word 'offence' in this chapter denotes a thing punishable under the Code or under any special or local law when it satisfied the conditions laid down in section 40 of the Code.

The "general exceptions" contained in sections 76–106 make an offence a non-offence. The "general exceptions" enacted by [Indian Penal Code, 1860 \(IPC, 1860\)](#) are of universal application and for the sake of brevity of expression, instead of repeating in every section that the definition is to be taken subject to the exceptions, the Legislature by [section 6 IPC, 1860](#) enacted that all the definitions must be regarded as subject to the general exceptions. Therefore, general exceptions are part of definition of every offence contained in [IPC, 1860](#), but the burden to prove their existence lied on the accused.^{1.}

The following acts are exempted under the Code from criminal liability:—

1. Act of a person bound by law to do a certain thing (section 76).
2. Act of a Judge acting judicially (section 77).
3. Act done pursuant to an order or a judgment of a Court (section 78).
4. Act of a person justified, or believing himself justified, by law (section 79).
5. Act caused by accident (section 80).
6. Act likely to cause harm done without criminal intent to prevent other harm (section 81).
7. Act of a child under seven years (section 82).
8. Act of a child above seven and under 12 years, but of immature understanding (section 83).
9. Act of a person of unsound mind (section 84).
10. Act of an intoxicated person (section 85) and partially exempted (section 86).
11. Act not known to be likely to cause death or grievous hurt done by consent of the sufferer (section 87).
12. Act not intended to cause death done by consent of sufferer (section 88).
13. Act done in good faith for the benefit of a child or an insane person by or by the consent of guardian (section 89).
14. Act done in good faith for the benefit of a person without consent (section 92).
15. Communication made in good faith to a person for his benefit (section 93).
16. Act done under threat of death (section 94).
17. Act causing slight harm (section 95).

18. Act done in private defence (sections 96–106).

The above exceptions, strictly speaking, come within the following seven categories:–

1. Judicial acts (section. 77, 78).
2. Mistake of fact (sections 76, 79).
3. Accident (section 80).
4. Absence of criminal intent (sections 81–86, 92–94).
5. Consent (sections 87, 90).
6. Trifling acts (section 95).
7. Private defence (sections 96–106).

Onus of proving exception lies on accused.—When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the general exceptions in the [Penal Code](#), or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.²

Although the law lays down that the onus of proving circumstances which give the benefit of a general exception to an accused person lies on him, and in the absence of evidence the presumption is against the accused, this does not mean that the accused must lead evidence. If it is apparent from the evidence on the record, whether produced by the prosecution or by the defence, that a general exception would apply, then the presumption is removed and it is open to the Court to consider whether the evidence proves to its satisfaction that the accused comes within the exception.³

Applicability of General exceptions during investigation.—In considering that whether accusation made in the complaint makes out a case for commission of offence or not, the police while reaching the *prima facie* satisfaction of suspecting the commission of cognizable offence, cannot ignore the general exception as provided under [IPC, 1860](#) as per Chapter IV of [IPC, 1860](#). If on the basis of the allegation made in the complaint, the case is falling in general exceptions, it can be said that the action cannot be termed as an offence.⁴ Investigating officer is bound to investigate and confirm that despite what is contained in the "General Exceptions"; acts committed by accused shall constitute offence under [IPC, 1860](#). This shall be done, by virtue of [section 6 of IPC, 1860](#). In the light of [section 6 of IPC, 1860](#), definition of every offence is to be understood subject to the "General Exceptions". Therefore, investigation shall not confine merely to the acts committed by a person. Depending on facts and circumstances of each case, many other relevant facts also have to be investigated into, in the light of the provisions contained in "General Exceptions". It is only then that an investigating officer will be able to confirm whether the act committed by a person is an offence or not, as defined in [IPC, 1860](#) subject to what is contained in "General Exceptions". Further, the category of self-defence falling in general exception would fall in a different category than the general exceptions, which are provided in the very chapter for exercise of the statutory duty or lawful power either under the mistake of law or fact or mistaken belief of law or fact.⁵

Of the Right of Private Defence

[s 100] When the right of private defence of the body extends to causing death.

The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:—

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly.—An assault with the intention of committing rape;

Fourthly.—An assault with the intention of gratifying unnatural lust;

Fifthly.—An assault with the intention of kidnapping or abducting;

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

449. [Seventhly.—An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act.]

COMMENT.—

The law authorizes a man who is under a reasonable apprehension that his life is in danger or his body in risk of grievous hurt to inflict death upon his assailant either when the assault is attempted or directly threatened, but the apprehension must be reasonable and the violence inflicted must not be greater than is reasonably necessary for the purpose of self-defence. It must be proportionate to and commensurate with the quality and character of the act it is intended to meet and what is done in excess is not protected. Where the accused was attacked by three persons and sustained an injury on the forehead, a vital part, he had reasonable apprehension of some hurt to be caused to him and had the right of self-defence but had exceeded by causing more harm to his assailants than needed. He was liable under section 304, Part I, and not under section 302.⁴⁵⁰ Where after receiving nine injuries, two on vital parts, the accused fired one shot from his gun which hit fatally an innocent person, the right of private defence extending to cause death was still available to the accused. His conviction under section 304, Part I was set aside.⁴⁵¹ Where the complainant's party had deliberately gathered near the house of the accused and scolded them and caused injuries to his father, the accused was held justified in exercising the right of private defence to defend his father and his conviction under section 300 was set aside.⁴⁵² It is the reasonable apprehension of death or grievous hurt that gives rise to the right of private defence under clauses (1) and (2) of [section 100, IPC, 1860](#)., and it has got nothing to do with the actual injury that the person exercising the right of private defence has suffered, which may or may not be grievous.⁴⁵³ Where the accused fails to make out a case of reasonable apprehension, he cannot claim the right of private defence.⁴⁵⁴ Where the life of the accused was not endangered by the ladies armed with broom sticks and '*chappals*', the accused was not entitled to stab one of the ladies to death in exercise of right of private defence.⁴⁵⁵