

It is true that when a person is on his or her deathbed, there is no reason to state a falsehood but it is equally true that it is not possible to delve into the mind of a person who is facing death.<sup>865</sup>

#### **[s 330.4] Abetment.—**

Where the accused stood by and acquiesced in an assault on a prisoner committed by another policeman for the purpose of extorting a confession, it was held that he abetted the offence under this section.<sup>866</sup>

<sup>859</sup>. *Nim Chand Mookerjee*, (1873) 20 WR (Cr) 41.

<sup>860</sup>. *State of HP v Ranjit Singh*, 1979 Cr LJ (NOC) 210 (HP).

<sup>861</sup>. *Shakila Abdul Gafar Khan v Vasant Raghunath Dhoble*, AIR 2003 SC 4567 [LNIND 2003 SC 653] : 2003 Cr LJ 4548 ; *State of MP v Shyamsunder Trivedi*, (1995) 4 SCC 262 [LNIND 1995 SC 644] : (1995) 1 SCC (Cr) 715.

<sup>862</sup>. *Ajay Kumar Singh v State (Nct of Delhi)*, 2007 Cr LJ 3545 (Del). *Sham Kant v State*, AIR 1992 SC 1879 : 1992 Cr LJ 3243 (SC).

<sup>863</sup>. *Sham Kant v State of Maharashtra*, AIR 1992 SC 1879 : 1992 Cr LJ 3243 . *Ashok K John v State of UP*, AIR 1997 SC 610 [LNIND 1996 SC 2177] : 1997 Cr LJ 743 , an arrestee was tortured. This was an infringement of fundamental rights of a citizen. He was held to be entitled to receive compensation from the State the amount of which would vary according to the proved facts of each case. Punishment under section 330 was not an adequate remedy. *Jaffar Khan v State of Rajasthan*, 1997 Cr LJ 1571 (Raj), offence not proved. *Indu Jain v State of MP*, (2008) 15 SCC 341 [LNINDORD 2008 SC 299] : AIR 2009 SC 976 [LNIND 2008 SC 2115] : 2009 Cr LJ 951 , the case of custodial death, framing of charge under the section was dropped by the trial court and High Court but the Supreme Court allowed it.

<sup>864</sup>. *Narender Kumar v State of NCT of Delhi*, AIR 2016 SC 150 [LNIND 2015 SC 711] : 2015 (13) Scale 821 [LNIND 2015 SC 711] .

<sup>865</sup>. *Jumni v State of Haryana*, 2014 Cr LJ 1936 : 2014 (4) SCJ 36 [LNIND 2014 SC 222] .

<sup>866</sup>. *Latifkhan v State*, (1895) 20 Bom 394; *Dinanath*, (1940) Nag 232.

## THE INDIAN PENAL CODE

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

#### Of the Causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

**[s 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 from 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.

#### COMMENT.—

This section is similar to the preceding section except that the hurt caused under it should be 'grievous'. Sections 330 and 331 of the IPC, 1860 provide punishment to one who voluntarily causes hurt or grievous hurt as the case may be to extort the confession or any information which may lead to the detection of an offence or misconduct, thus, the Constitution as well as the statutory procedural law and law of Evidence condemn the conduct of any official in extorting a confession or information under compulsion by using any third degree methods.<sup>867</sup> The diabolic recurrence of police torture resulting in a terrible scare in the minds of common citizens that their lives and liberty are under a new and unwarranted peril because guardians of law destroy the human rights by custodial violence and torture and invariably resulting in death. The vulnerability of human rights assumes a significance when functionaries of the State whose paramount duty is to protect the citizens and not to commit gruesome offences against them, in reality, such functionaries perpetrate them.<sup>868</sup>

<sup>867</sup>. *Kartar Singh v State of Punjab*, (1994) 3 SCC 569 : 1994 Cr LJ 3139 .

<sup>868</sup>. *Dalbir Singh v State of UP*, AIR 2009 SC 1674 [LNIND 2009 SC 220] : (2009) 11 SCC 376 [LNIND 2009 SC 220] . The anguish expressed in *Gauri Shanker Sharma v State of UP*, AIR 1990 SC 709 [LNIND 1990 SC 8] ; *Bhagwan Singh v State of Punjab*, 1992 (3) SCC 249 [LNIND 1992 SC 396] ; *Smt. Nilabati Behera @ Lalita Behera v State of Orissa*, AIR 1993 SC 1960 [LNIND 1993 SC 1167] ; *Pratul Kumar Sinha v State of Bihar*, 1994 Supp (3) SCC 100 ; *Kewal Pati v State of UP*, 1995 (3) SCC 600 ; *Inder Singh v State of Punjab*, 1995 (3) SCC 702 [LNIND 1995 SC 1381] ; *State*

of *MP v Shyamsunder Trivedi*, [1995 \(4\) SCC 262 \[LNIND 1995 SC 644\]](#) and by now celebrated decision in *Shri DK Basu v State of WB*, [JT 1997 \(1\) SC 1 \[LNIND 1996 SC 2177\]](#) seems to have caused not even softening of police's attitude towards the inhuman approach in dealing with persons in custody.

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##### [s 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.

#### COMMENT.—

This section resembles section 353. Under it there is causing of hurt to the public servant, under section 353 there is assault or criminal force for the same purpose.

Ingredients of an offence under [section 332 of IPC, 1860](#) are:

- (1) hurt must have been caused to a public servant and
- (2) it must have been caused—
  - (a) while such public servant was acting in the discharge of his duty as such, or
  - (b) in order to prevent or deter him from discharging his duty as a public servant or
  - (c) in consequence of his having done or attempted to do anything in the lawful discharge of his duty as such a public servant.

Evidence necessary to establish an offence under [section 332 of IPC, 1860](#) are:

- (a) the accused voluntarily caused bodily pain, disease or infirmity to the victim (as provided under [section 321 of IPC, 1860](#)),
- (b) the victim of the hurt is a public servant, and
- (c) at the time of causing of hurt, the public servant concerned was discharging his duties *qua* public servant. An offence under [section 332 of IPC, 1860](#) is attracted if the accused voluntarily caused hurt to any person being a public servant in the discharge of his duty. It is not necessary to establish further that hurt was voluntarily caused to prevent or deter that person from discharging his duty as a public servant. On the other hand, if hurt was voluntarily caused to a public

servant, while not discharging his duty as a public servant, it is necessary to prove that hurt was caused with intent to prevent or deter that person or any other public servant from discharging his duty. Alternatively, if hurt was voluntarily caused to a public servant, while he was discharging his official duty as such public servant, it is not necessary to establish further that it was so caused with the intention to prevent or deter that person from discharging his duty as such public servant. On the other hand, even if hurt was caused voluntarily to a public servant, if he was not discharging his duty as a public servant at that time, it is necessary to prove additionally that hurt was caused to prevent or deter that person from discharging his duty as a public servant.<sup>869.</sup>

Where a public servant was assaulted due to an earlier private quarrel, the assault having no causal connection with the duty of the public servant, the accused could not be held liable under [section 332 IPC, 1860](#). His conviction was, therefore, changed to one under [section 323 IPC, 1860](#).<sup>870.</sup>

Accused/appellant cut the hose pipe from the train and assaulted the complainant/constable when he questioned the act. According to them, the accused/appellant and other accused persons had gone to the extent of pulling down the complainant from the train and when he was taken to the guardroom, they were shouting at him threatening to throw him on the railway track. Offence was clearly made out.<sup>871.</sup>

Where the accused persons entered the premises of a government school and abused, humiliated and voluntarily caused hurt to deter the Head Master of the school from his duty and they abused the other teachers also, the Court did not interfere with their conviction under section 332.<sup>872.</sup>

### **[s 332.1] Sentence.—**

Accused, an under trial prisoner gave beatings to jail warden with a wooden plank on head. He was a habitual offender and also involved in other cases. Injuries caused to victim were grievous in nature. He also attacked other warden with sole object of fleeing from prison. Trial Court exercised its judicial discretion to award maximum punishment taking into consideration all relevant factors. Sentence imposed upon appellant was held proper by the High Court.<sup>873.</sup>

<sup>869.</sup> *Rajan v State*, 2011 (4) Ker LJ 157 .

<sup>870.</sup> *D Chattaiah*, 1978 Cr LJ 1473 : AIR 1978 SC 1441 . *Jhamman v State of UP*, 1991 Cr LJ 2970 , refusal to give sample to a food Inspector.

<sup>871.</sup> *Gyan Bahadur v State of MP*, 2013 Cr LJ 1729 (MP).

<sup>872.</sup> *Madhudass v State of Rajasthan*, 1994 Cr LJ 3595 (Raj).

<sup>873.</sup> *Rakesh Rai v State of Sikkim*, 2012 Cr LJ 4033 (SIK).

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##### [s 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.

##### COMMENT.—

This section provides for the aggravated form of the offence dealt with in the last section. The hurt caused under it must be grievous. Where the accused gave fist blow on the face of the victim which caused loosening of one tooth, but the victim was discharged from the hospital on the same day, moved about throughout the day and attended his duties the next day, it was held that the injury could not be regarded as grave and serious. It was a case of simple hurt.<sup>874</sup> The basic differences between [sections 333](#) and [325 IPC, 1860](#) are that section 325 gets attracted where grievous hurt is caused, whereas section 333 gets attracted if such hurt is caused to a public servant.<sup>875</sup>

Complainant had sustained grievous hurt while he was on patrolling duty. He was questioning the unauthorised parking of a pickup van. He was taken inside the van then kicked and punched. Witnesses corroborated each other on material particulars. Conviction was upheld.<sup>876</sup> Where a police constable was assaulted by unknown persons and no identification parade was conducted, it was held that accused cannot be convicted unless it is proved that the injury was inflicted by the accused.<sup>877</sup>

The accused was working as a watchman in an office of FCI and misbehaved twice with members of the staff in respect of which complaints were made to the District Manager who procured suspension order of the accused from the higher official and served it on him. The accused attacked and beat the Manager. It was held that it amounted to preventing and deterring a public servant, from acting in lawful discharge of his duty and the accused was liable to be convicted under section 333.<sup>878</sup>

##### [s 333.1] Irrationality in sentence.—

It is to be noted that there is terrible irrationality in the sentence prescribed for committing offences under [section 333, IPC, 1860](#). The said offence is in combination of offence — defined under section 320 and the offence of assault on a public servant

punishable under [section 333, IPC, 1860](#). The offence of grievous hurt is punishable under [section 326, IPC, 1860](#) with life imprisonment or with the imprisonment of either description for a term, which may extend to 10 years and shall also be liable to fine. Whereas a higher form of manifested offence under section 333 is made punishable only with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine. The different types of injuries enumerated under section 320 do not ensue same amount of harm, pain and disability. Therefore, proportionate to the nature of grievous injuries and its consequences, the punishment should be redefined. So also the punishment for an offence under section 333 should be redefined.<sup>879</sup>.

<sup>874</sup>. *VB Murthy v State of WB*, [1995 Cr LJ 1819](#) (Cal). The accused was required to pay a fine of Rs. 2000 and released on probation. He was an unemployed young graduate with no criminal record or leaning. *Siyasaran v State of MP*, [1995 Cr LJ 2126](#) (SC), here a fist blow was given to a surgeon in a Government hospital, benefit of probation was not given because violence against hospital doctors was not tolerable. The sentence was reduced to the period already undergone and a fine of Rs. 50,000 was imposed in lieu of compensation. *State of MP v Saleem*, [2005 Cr LJ 3435](#) : [AIR 2005 SC 3996](#) [[LNIND 2005 SC 1070](#)] : (2005) 5 SCC 554 [[LNIND 2005 SC 1070](#)] , knife injury to deter a public servant.

<sup>875</sup>. *State of MP v Imrat*, [AIR 2008 SC 2967](#) [[LNIND 2008 SC 1391](#)] : (2008) 11 SCC 523 [[LNIND 2008 SC 1391](#)] .

<sup>876</sup>. *Chand Ram v State of HP*, [2013 Cr LJ 1415](#) (HP).

<sup>877</sup>. *State v Tidda alias Sonu*, [2008 \(4\) Crimes 623](#) (MP). See also *State v Mohammed Sadiq*, [2006 Cr LJ 3391](#) (Kar).

<sup>878</sup>. *Lam Jaya Rao v State of AP*, [1992 Cr LJ 2127](#) (AP).

<sup>879</sup>. *State of Karnataka v Mohammed Sadiq*, [2006 Cr LJ 3391](#) (Kar).

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##### [s 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.

##### COMMENT.—

This section serves as a proviso to sections 323 and 324. See Comment on Exception 1 to section 300.<sup>880</sup>

##### [s 334.1] Sentence.—

High Court imposed a sentence of one year for offence under [section 334 IPC, 1860](#) whereas the maximum sentence for offence under [section 334 IPC, 1860](#) is one month. The sentence reduced to one month.<sup>881</sup>

<sup>880</sup>. See also *Bosco Lawrence Fernandes v State of Maharashtra*, [\(1995\) 2 Cr LJ 2007](#) (Bom), covered under section 34.

<sup>881</sup>. *Ahmed Ali v State of Tripura*, [\(2009\) 6 SCC 704 \[LNIND 2009 SC 1043\]](#) : (2009) 3 SCC (Cr) 12.



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##### [s 335] Voluntarily causing grievous hurt on provocation.

Whoever <sup>882.</sup>[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 provisos as Exception 1, section 300.

#### COMMENT.—

This section serves as a proviso to sections 325 and 326. However, in the absence of the exact words being recorded, the abuses even involving mother and sister which are commonly indulged in by rustic villagers like the accused, could not be regarded as grave and sudden within the meaning of this section.<sup>883.</sup> Unless there is sudden and grave provocation, section 335 will not be attracted.<sup>884.</sup>

<sup>882.</sup> Ins. by Act 8 of 1882, section 8.

<sup>883.</sup> *State of Maharashtra v BR Patil*, 1978 Cr LJ 411 (Bom). *Arjunan v State of TN*, 1997 Cr LJ 2327 (Mad), in a dispute over cutting of tree, the accused pelted stones and caused injuries to the victim who died and witnesses were injured. The deceased had caused the provocation. Accused was liable to be convicted under section 335 and not section 325. *State of MP v Rajesh*, 1997 Cr LJ 2466 (MP), objection of accused to construction of a urinal which caused ugly sight to the accused. This caused provocation. For injuries caused under such provocation, the accused was held to be entitled to the benefit of section 335. Another accused who was not provoked was convicted under section 324. *Ahmed Ali v State of Tripura*, (2009) 6 SCC 704 [LNIND 2009 SC 1043] : (2009) 3 SCC (Cr) 12, the maximum term under the section being four years, the accused was sentenced to two years with a fine of Rs. 1,000. He being a person of tender years, the period was reduced to three months maintaining the fine amount.

<sup>884.</sup> *CBI v Kishore Singh*, (2011) 6 SCC 369 [LNIND 2010 SC 1033] : (2011) 2 SCC (Cr) 970 : AIR 2011 SC (Supp) 584; *Upparapalli Tirumala Rao v State of AP*, 2004 Cr LJ 4514 (AP).

