

description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with imprisonment for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

#### COMMENT.—

Persons who offer resistance or illegal obstruction to the apprehension of other persons who have committed offences are punishable under this section. The preceding section punishes the offenders themselves. Section 130 deals with rescuing a prisoner of State or war and section 186, with rescuing in any other case.

'Rescue' is the act of forcibly freeing a person from custody against the will of those who have him in custody.<sup>366</sup> It has no application to a person who is in lawful custody and who has offered no resistance or obstruction.<sup>367</sup> It is also not necessary that the rescuing should be done intentionally for in the second part of this section the word "intentionally" has been deliberately omitted. Thus where a person even in order to pacify a situation released an accused from the lawful custody of the *chowkidar* by untying the turban with which the accused had been tied, it was held that the person so releasing the accused was clearly guilty of an offence under [section 225, IPC, 1860](#), for rescuing an offender from lawful custody.<sup>368</sup>

One can be held guilty for an offence under section 225 if he rescues a person who was detained lawfully. Here the word 'rescue' though not defined in the Code, will always mean an act of getting a person free forcibly from custody against the will of person in whose lawful custody he was. Therefore, some overt act needs to be there, if one is said to have rescued a person from the lawful custody.<sup>369</sup>

Where the accused obstructed the lawful apprehension of a person and wrongfully confined two police personnel and the evidence of the prosecution was amply corroborated and supported by medical evidence, conviction and sentence of the accused under sections 225, 332 and 342 was upheld.<sup>370</sup> The act for which the person rescued is detained must amount to an offence under the Code. Thus an escape from custody when being taken before a Magistrate for the purpose of being bound over to be of good behaviour,<sup>371</sup> or an escape from arrest under [section 41\(2\), Criminal Procedure Code](#),<sup>372</sup> will not fall under this section. If the apprehension is not lawful the person resisting it will not be guilty of any offence.<sup>373</sup>

1. *S Palani Velayutham v District Collector Tirunvelveli TN*, (2010) 1 SCC (Cr) 401 : (2009) 10 SCC 664 [LNIND 2009 SC 1659] : (2009) 12 SCR 1215 [LNIND 2009 SC 1659] .

361. Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

362. *Ibid*.

363. The words "or to" omitted by Act 36 of 1957, section 3 and Sch II (w.e.f. 17 September 1957).
364. The word "transportation" omitted by Act 26 of 1955, section 117 and Sch (w.e.f. 1 January 1956).
365. The words "penal servitude" omitted by Act 17 of 1949, section 2 (w.e.f. 6 April 1949).
366. *Vaghari Kala Bhikha*, [1985 Cr LJ 237](#) (Guj).
367. *Salim*, [1972 Cr LJ 1454](#) (Guj).
368. *Awadhesh Mahato*, [1979 Cr LJ 1275](#) (Pat).
369. *Radha Sah v State of Jharkhand*, [2007 Cr LJ 2805](#) (Jha).
370. *Prithvi Nath Pandey v State of UP*, [1994 Cr LJ 3623](#) (All).
371. *Shasti Churn Napit*, [\(1882\) 8 Cal 331](#) .
372. *Kandhaia*, [\(1884\) 7 All 67](#) .
373. *PB Gosain v State*, [\(1962\) 1 Cr LJ 91](#) ; *Kunju Kunju*, [\(1962\) 2 Cr LJ 437](#) . *Matha Yadav v State of Bihar*, [2002 Cr LJ 2819](#) : [AIR 2002 SC 2137](#) [[LNIND 2002 SC 359](#)] , the accused was caught red-handed when he was uprooting the crops of the victim's family. They refused to release him till he was brought before the village *panchayat*, They were not intending to hand him over to police. It was held that their conviction under section 225 was not possible.

## THE INDIAN PENAL CODE

### CHAPTER XI OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

Under the [Indian Penal Code, 1860](#) offences relating to false evidence and offences against public justice are contained in Chapter XI. In relation to proceeding in any Court, the offences enumerated are: giving false evidence or fabricating false evidence (sections 191–193); giving or fabricating false evidence with intent to procure conviction (sections 194 and 195); threatening any person to give false evidence (section 195A); using evidence known to be false (section 196); using as true a certificate known to be false (section 198); making a false statement in a declaration which is by law receivable as evidence (section 199); using as true any declaration receivable as evidence, knowing it to be false (section 200); causing disappearance of evidence of offence, or giving false information to screen offender (section 201); intentional omission to give information of offence by person bound to inform (section 202); giving false information in respect of an offence (section 203); destruction of document or electronic record to prevent its production as evidence (section 204); false personation (section 205); fraudulent removal/concealment of property (section 206); fraudulent claim to property (section 207); fraudulently suffering or obtaining decree for sum not due (section 208 and section 210); dishonestly making a false claim in Court (section 209); and intentional insult or interruption to public servant sitting in judicial proceedings (section 228). [Section 195 of Code of Criminal Procedure](#) provides that no Court shall take cognizance of any offence punishable under section 172–188 (dealing with the contempt of the lawful authority of public servants) or section 193–196, 199, 200, 205–211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of that Court by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.<sup>1</sup>

#### **[s 225A] Omission to apprehend or sufferance of escape, on part of public servant, in cases not otherwise provided for.**

**[Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished —**

- (a) **if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and**
- (b) **if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.]**

#### **COMMENT.—**

This section punishes intentional or negligent omission to apprehend on the part of a public servant not coming within the purview of sections 221, 222 or 223.

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1. *S Palani Velayutham v District Collector Tirunvelveli TN*, (2010) 1 SCC (Cr) 401 : [\(2009\) 10 SCC 664](#) [[LNIND 2009 SC 1659](#)] : (2009) 12 SCR 1215 [[LNIND 2009 SC 1659](#)] .

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**[s 225B] Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.**

**[Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues<sup>1</sup> or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]**

#### COMMENT.—

This section is intended to meet cases not covered by section 224 or section 225. Under section 225 a person, escaping from custody when being taken before a Magistrate for the purpose of being bound over to be of good behaviour, or escaping from a jail in which he is confined by reason of his having failed to furnish security to be of good behaviour,<sup>374</sup> cannot be punished; under this section he can.

There must be an overt act of resistance or obstruction. If a person runs away to avoid an arrest, his act does not amount to resistance or obstruction.<sup>375.</sup>

The apprehension or detention must be lawful. If the warrant is defective the rescue of the person arrested under such warrant is no offence under this section. The liberty of the subject cannot be trifled with, and every person can require by right that the Court ordering his arrest shall observe the law.<sup>376.</sup>

**1. 'Rescues'.—**Rescuing indicates some positive overt act on the part of the accused by which the liberation of the person arrested is effected.<sup>377.</sup>

### **[s 225B.1] CASES.—**

**Resistance to arrest without warrant justifiable.—**An arrest by a police-officer, without notifying the substance of the warrant to the person against whom the warrant is issued, as required by [section 80 of the Criminal Procedure Code](#), is not a lawful arrest, and resistance to such an arrest is no offence under this section.<sup>378.</sup> A person, about to be arrested, is entitled to know under what power the constable is arresting him and, if he specifies a certain power which the person knows the constable has not got, he is entitled to object to such arrest and escape from custody, such custody not being a lawful one. For a charge of escaping from lawful custody the prosecution must first establish that the constable who arrested the man had power to act under the specific authority that he claimed to have.<sup>379.</sup>

### **[s 225B.2] Resistance to improper warrant justifiable.—**

A person cannot be arrested under sections 225B and 353 when the warrant attempted to be executed was addressed to the person with a wrong description to which he did not answer,<sup>380.</sup> or when it was illegal owing to want of the seal of the Court,<sup>381.</sup> or when it did not contain the name of the person to be arrested,<sup>382.</sup> or for any other defect.<sup>383.</sup> But even if a Court has wrongly exercised its discretion in issuing a warrant, an accused escaping from the custody of the peon apprehending him or obstructing his apprehension would be guilty under this section.<sup>384.</sup> This is, however, not to say that an outright illegality in issuing the warrant too would have no consequence. Thus, where the warrant was signed by a *sheristadar* who had no authority to sign the warrant, it was held by offering resistance to arrest under such an illegal warrant the accused did not come under the mischief of this section.<sup>385.</sup>

### **[s 225B.3] Escape must be from lawful custody.—**

The accused was arrested by a Process-Server, and after the arrest he managed to escape from custody, went inside his house, shut himself up there, and refused to come out. It was held that an offence under section 186 was not established, but that the accused was guilty of the offence of escaping from lawful custody under this section.<sup>386.</sup> But when the accused was merely requested by the *Amin* of the Civil Court to accompany him to the Court and the accused was not informed that he was being put under arrest, it was held that the accused committed no offence under this section by refusing to accompany the *Amin*.<sup>387.</sup>

1. *S Palani Velayutham v District Collector Tirunvelveli TN*, (2010) 1 SCC (Cr) 401 : (2009) 10 SCC 664 [LNIND 2009 SC 1659] : (2009) 12 SCR 1215 [LNIND 2009 SC 1659] .
374. *Muli v State*, (1920) 43 All 185 .
375. *Annaudin*, (1923) 1 Ran 218.
376. *Fattu*, (1932) 55 All 109 , 111, 112.
377. *Thangal*, AIR 1961 Ker 331 [LNIND 1960 KER 261] .
378. *Satish Chandra Rai v Jodu Nandan Singh*, (1899) 26 Cal 748 .
379. *Appasami Mudaliar*, (1924) 47 Mad 442.
380. *Debi Singh*, (1901) 28 Cal 399 .
381. *Mahajan Sheikh*, (1914) 42 Cal 708 .
382. *Jogendra Nath Laskar v Hiralal*, (1924) 51 Cal 902 .
383. *Gokal v State*, (1922) 45 All 142 ; *Gaman*, (1913) PR No. 16 of 1913; *Muhammad Baksh*, (1904) PR No. 16 of 1904.
384. *Puna Mahton*, (1932) 11 Pat 743.
385. *I Venkayya v State*, 1973 Cr LJ 245 (AP). See also *Subbramaniah*, AIR 1934 Mad 206 [LNIND 1934 MAD 4] .
386. *Jamna Das*, (1927) 9 Lah 214.
387. *Heer Singh*, AIR 1961 Raj 156 [LNIND 1960 RAJ 162] .

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**[s 226] [Omitted]**

**[\* \* \*] [Omitted]. [by Act XXVI of 1955, section 117 and Sch.]**

1. *S Palani Velayutham v District Collector Tirunelveli TN*, (2010) 1 SCC (Cr) 401 : (2009) 10 SCC 664 [LNIND 2009 SC 1659] : (2009) 12 SCR 1215 [LNIND 2009 SC 1659] .



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#### **[s 227] Violation of condition of remission of punishment.**

**Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.**

#### **COMMENT.—**

This section deals with those cases in which remission of punishment is made conditional by Government under [section 432 of the Code of Criminal Procedure](#). [Section 227 of the IPC, 1860](#) makes it a specific offence on the part of any person who has accepted any conditional remission of punishment if he knowingly violates any condition on which such remission was granted. In other words while the [Code of Criminal Procedure](#) envisages arrest of a person who violates the conditions of remission and remand straightway to jail, [section 227 of the IPC, 1860](#) envisages for the same act of violation of conditions, prosecution and the punishment, if the prosecution succeeds, is the same, as the consequence contemplated under section 432 (3), namely, remanding of the person concerned for the rest of his term.<sup>388.</sup>

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1. *S Palani Velayutham v District Collector Tirunvelveli TN*, (2010) 1 SCC (Cr) 401 : (2009) 10 SCC 664 [LNIND 2009 SC 1659] : (2009) 12 SCR 1215 [LNIND 2009 SC 1659] .
  388. *Krishnan Nair v State*, 1983 Cr LJ 87 .