

THE INDIAN PENAL CODE

CHAPTER X OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

This Chapter contains penal provisions intended to enforce obedience to the lawful authority of public servants. Contempt of the lawful authority of Courts of Justice, of Officers of Revenue, Officers of Police, and other public servants are punishable under this head.

[s 183] Resistance to the taking of property by the lawful authority of a public servant.

Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

COMMENT—

This section makes it penal to offer resistance to the taking of property by the lawful authority of any public servant. The Bombay High Court has held that there are no words in the section as there are in section 99, extending the operation of the section to acts which are not strictly justifiable by law. Resistance to an act of a public officer acting *bona fide* though in excess of his authority may give rise to some charge in the nature of assault, but it cannot afford any foundation for a prosecution under this section.⁹⁰ The Madras High Court is of opinion that this section should be read in conjunction with section 99. Taking the two together, if an officer acts in good faith under colour of his office the mere circumstance that his "act may not be strictly justifiable by law" cannot affect the lawfulness of his authority. In this case, property had been seized in execution by the officer of the Court, and it was held that as the officer was acting *bona fide*, though he had wrongly seized the property of the accused, the accused could be convicted under this section for resisting the execution.⁹¹ This view of the law receives substantial support from the decision of the Supreme Court in *Keshoram's case*⁹², where too it has been held that merely because no prior notice was served on the accused before seizing his cattle under the Delhi Municipal Act for recovering arrears of milk tax, it could not be said that the municipal officer's action was entirely illegal and as such the accused had the right of private defence against the *bona fide* act of the public servant. In the instant case the accused was held to have been rightly convicted under sections 353/332/333, [IPC, 1860](#), for assaulting the public servant. On a parity of reasoning it can be said that had the accused been prosecuted under section 183 of the Code, he could have also been convicted under that section as well.

[s 183.1] Lawful authority wanted.—

Where a person resisted an official in attaching property under a warrant, the term of which had already expired,⁹³ or which did not specify the date on or before which it was to be executed,⁹⁴ it was held that he was not guilty under this section. If the

warrant is executed by a Court official when it is addressed to a peon, resistance to the Court official is not illegal.^{95.}

If a bailiff breaks open the doors of a third person in order to execute a decree against a judgment-debtor, he is a trespasser if it turns out that the person or goods of the debtor are not in the house; and under such circumstances the owner of the house does not by obstructing the bailiff, render himself punishable under section 183 or section 186.^{96.}

90. *Sakharam Pawar*, (1935) 37 Bom LR 362 .

91. *Tiruchitrambala Pathan*, (1896) 21 Mad 78.

92. *Keshoram*, 1974 Cr LJ 814 : AIR 1974 SC 1158 [LNIND 1974 SC 130] .

93. *Anand Lal Bera v State*, (1883) 10 Cal 18 .

94. *Mohini Mohan Banerji*, (1916) 1 PLJ 550 , 18 Cr LJ 39.

95. *Ibid.*

96. *Gazi Aba Dore*, (1870) 7 BHC (Cr C) 83.

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[s 184] Obstructing sale of property offered for sale by authority of public servant.

Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, 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 punishes intentional obstruction of the sale of any property conducted under the lawful authority of a public servant. No physical obstruction is necessary. Use of abusive language by a person at an auction-sale conducted by a public servant makes him liable to be convicted of an offence under this section.^{97.}

^{97.} *Provincial Govt. CP & Berar v Balaram*, (1939) Nag 139.

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[s 185] Illegal purchase or bid for property offered for sale by authority of public servant.

Whoever, at any sale of property¹ held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

COMMENT—

This section makes it penal to bid at a public sale of property on account of a party who is under a legal incapacity to purchase it, or to bid for it not intending to complete the purchase or as it is expressed to perform the obligations under which the bidder lays himself by such "bidding".^{98.}

1. 'Property'.—This word is used in its wide sense. The right to sell drugs is a monopoly granted for a certain area and comes within the definition of property. A person who bids at an auction of the right to sell drugs within a certain area under a false name and, when the sale is confirmed in his favour, denies that he has ever made any bid at all, is guilty of an offence under this section.^{99.}

^{98.} 2nd Rep., section 110.

^{99.} *Bishan Prasad*, (1914) 37 All 128 .

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[s 186] Obstructing public servant in discharge of public functions.

Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

State Amendment

Andhra Pradesh.— *Offence under section 186 is cognizable.*

[Vide A.P.G.O. Ms. No. 732, dated 5th December, 1991].

COMMENT—

This section provides for voluntarily obstructing a public servant in the discharge of his duties. It must be shown that the obstruction or resistance was offered to a public servant in the discharge of his duties or public functions as authorised by law. The mere fact of a public servant believing that he was acting in the discharge of his duties will not be sufficient to make resistance or obstruction to him amount to an offence.¹⁰⁰ If the public servant is acting in good faith under colour of his office there is no right of private defence against his act.¹⁰¹

The word "obstruction" connotes some overt act in the nature of violence or show of violence.¹⁰² To constitute "obstruction", it is not necessary that there should be actual criminal force. It is sufficient if there is either a show of force or a threat or any act preventing the execution of any act by a public servant.¹⁰³ Though an offence under this section is a non-cognizable one, by virtue of powers vested in the State Government under [section 10 of the Criminal Law Amendment Act, 1932](#), it can be made a cognizable offence in a specified area by means of a notification, while such notification remains in force.

[s 186.1] Initiation of Prosecution.—

To initiate prosecution under this section it is necessary to see that the complaint is filed under section 195(1)(a), [Cr PC, 1973](#), by the concerned public servant or his superior officer to whom he is administratively subordinate (See also discussion under sub-head "Condition precedent for Prosecution under section 182 ante.) It is also not possible to bypass the requirements of section 195(1)(a), [Cr PC, 1973](#), by merely changing the label of the offence, say from section 186 to [section 353, IPC, 1860](#).¹⁰⁴

[s 186.2] Offences with bar under [section 195 Cr PC, 1973](#) with some offences without the bar.—

Where an accused commits some offences which are separate and distinct from those contained in [section 195 of the Cr PC, 1973](#), section 195 will affect only the offences mentioned therein unless such offences form an integral part so as to amount to offences committed as a part of the same transaction, in which case the other offences also would fall within the ambit of section 195 of the Code.¹⁰⁵ It is a well-accepted proposition of law that when an accused commits some offences which are separate and distinct from those contained in section 195; section 195 will affect only the offences mentioned therein unless such other offences form an integral part of the same so as to amount to offences committed as a part of the same transaction. That in such case the other offences would also fall within the ambit of section 195 of the Code. In other words, the offences charged against the petitioners under [section 143, 147, 148, 149, 332, 333 and 307 of IPC, 1860](#), cannot be split from the complaint for a separate offence in the facts and circumstances of the present case, and thereby cognizance in respect to said offences are also barred under section 195(1)(a)(i) of the Code.¹⁰⁶

[s 186.3] CASES.—Obstruction.—

A Circle Inspector went into the compound of the accused with a village servant to remove a portion of the hedge which was an encroachment. When the servant put his scythe to the hedge to cut it, the accused caught hold of the scythe and threatened him. It was held that the accused was guilty of an offence under this section, since his laying hold of the scythe amounted to physical obstruction, and the obstruction offered to the servant was tantamount to obstruction to the Circle Inspector under whose orders he was acting.¹⁰⁷ The daughter of the tenant of the accused died of electrocution. The police-officers entered the premises with permission to check fresh wiring and leakage of current. They were prevented from taking photographs by the accused and also not allowed to leave the house. The Court said that this amounted to obstruction within the meaning of section 186 and wrongful confinement within the meaning of section 342.¹⁰⁸ Section 186 contemplates obstruction of a public servant in the discharge of his public duty and section 332 contemplates voluntarily causing hurt to him to deter him from performing his public duty. The gravity of the offences is different. Offence under section 332 is cognizable. The requirement of making a complaint in writing as postulated by [section 195, Cr PC, 1973](#), cannot be extended to the case of an offence under section 332.¹⁰⁹

[s 186.4] Section 186 and Section 353: Distinction between.—

[Sections 186 and 353, IPC, 1860](#) relate to two distinct offences and while the offence under the latter section is a cognizable offence the one under the former section is not so. The ingredients of the two offences are also distinct. [Section 186, IPC, 1860](#) is applicable to a case where the accused voluntarily obstructs a public servant in the discharge of his public functions but under [section 353, IPC, 1860](#) the ingredient of assault or use of criminal force while the public servant is doing his duty as such is necessary. The quality of the two offences is also different. Section 186 occurs in Chapter X of the [IPC, 1860](#) dealing with Contempts of the lawful authority of public servants, while section 353 occurs in Chapter XVI regarding the Offences affecting the human body. It is well established that [section 195 of the Cr PC, 1973](#) does not bar the trial of an accused person for a distinct offence disclosed by the same set of facts but

which is not within the ambit of that section.¹¹⁰ If in truth and substance the offence in question falls in the category of sections mentioned in section 195 of the Code and it was not open to bypass its provisions even by choosing to prosecute under [section 353, IPC, 1860](#) only.¹¹¹

100. *Lilla Singh*, (1894) 22 Cal 286 ; *Tulsiram v State*, (1888) 13 Bom 168.

101. *Poomalai Udayan*, (1898) 21 Mad 296; *Pukot Kotu*, (1896) 19 Mad 349.

102. *Phudki*, AIR 1955 All 104 [LNIND 1954 ALL 119] .

103. *Babulal*, (1956) 58 Bom LR 1021 .

104. *Oduvil Devaki Amma*, 1982 Cr LJ NOC 11 (Ker).

105. *State of UP v Suresh Chandra Srivastava*, AIR 1984 SC 1108 [LNIND 1984 SC 575] : 1984 Cr LJ 926 .

106. *Ramji Bhikha Koli v State of Gujarat*, 1999 Cr LJ 1244 (Guj).

107. *Bhaga Mana*, (1927) 30 Bom LR 364 . See also *Gyan Bahadur v State of MP*, 2013 Cr LJ 1729 (MP).

108. *Veena Ranganekar v State*, 2000 Cr LJ 2543 (Del).

109. *State of HP v Vidya Sagar*, 1997 Cr LJ 3893 (HP).

110. *Durgacharan Naik v State of Orissa*, AIR 1966 SC 1775 [LNIND 1966 SC 59] : 1966 Cr LJ 1491 (SC).

111. *Ashok v The State*, 1987 Cr LJ 1750 (MP); *Mrityunjoy Das v State*, 1987 Cr LJ 909 (Cal).

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[s 187] Omission to assist public servant when bound by law to give assistance.

Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both;

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

COMMENT—

This section provides, first in general terms for the punishment when a person, being bound by law to render assistance to a public servant in the execution of his public duty, intentionally omits to assist; and second, for the punishment when the assistance is demanded for certain specified purposes.^{112.}

This section speaks of assistance to be rendered to public servants, just as sections 176 and 177 speak of furnishing true information. A case was registered against the accused/ Sub-Inspector of Police under [section 187 of the IPC, 1860](#) for not assisting the Assisting Sessions Judge, in the service of summons to witnesses and administration of justice. In the light of the language employed in [sections 195\(1\) of Cr PC, 1973](#), the prosecution initiated at the instance of the Assistant Sessions Judge cannot be sustained for the reason that the Sub-Inspector of Police is not subordinate to the said Officer. Unless a complaint is made by the competent officer as specified under section 195(1) of the Code, the prosecution cannot be further proceeded with. Apart from this aspect of the matter, in as much as the service of summons, being in discharge of the official duties of the Sub-Inspector, sanction under section 197 of the code is also required.^{113.}

112. *Ramaya Naika*, (1903) 26 Mad 419, (FB).

113. *Paleti Anil Babu v State*, [2006 Cr LJ 3084](#) (AP).

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[s 188] Disobedience to order duly promulgated by public servant.

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both;

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

***Explanation.*—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.**

ILLUSTRATION

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

COMMENT—

Ingredients.—To constitute this offence it is necessary to show—

- (1) a lawful order promulgated by a public servant empowered to promulgate it;
- (2) knowledge of the order which may be general or special;
- (3) disobedience of such order; and
- (4) the result that is likely to follow from such disobedience.