

The Penal Code, 1860¹ [Repealed] (Penal Code, 1860 - Section 1 to 267)

*[Act 45 of 1860 as amended upto Act 34 of 2019 and updated as of 30th
April 2024]*

[6th October, 1860]

*[Repealed by Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), S. 358
(1), w.e.f. 1-7-2024]*

CONTENTS

CHAPTER I

INTRODUCTION

1. Title and extent of operation of the Code
2. Punishment of offences committed within India
3. Punishment of offences committed beyond, but which by law may be tried within, India
4. Extension of Code to extra-territorial offences
5. Certain laws not to be affected by this Act

CHAPTER II

GENERAL EXPLANATIONS

6. Definitions in the Code to be understood subject to exceptions
7. Sense of expression once explained
8. Gender
9. Number
10. "Man", "Woman"
11. "Person"
12. "Public"
13. "Queen"

14. "Servant of Government"
15. "British India"
16. "Government of India"
17. "Government"
18. "India"
19. "Judge"
20. "Court of Justice"
21. "Public servant"
22. "Movable property"
23. "Wrongful gain"
24. "Dishonestly"
25. "Fraudulently"
26. "Reason to believe"
27. Property in possession of wife, clerk or servant
28. "Counterfeit"
29. "Document"
- 29-A. Electronic record
30. "Valuable security"
31. "A will"
32. Words referring to acts include illegal omissions
33. "Act", "Omission"
34. Acts done by several persons in furtherance of common intention
35. When such an act is criminal by reason of its being done with a criminal knowledge or intention
36. Effect caused partly by act and partly by omission
37. Co-operation by doing one of several acts constituting an

offence

38. Persons concerned in criminal act may be guilty of different offences

39. "Voluntarily"

40. "Offence"

41. "Special law"

42. "Local law"

43. "Illegal", "Legally bound to do"

44. "Injury"

45. "Life"

46. "Death"

47. "Animal"

48. "Vessel"

49. "Year", "Month"

50. "Section"

51. "Oath"

52. "Good faith"

52-A. "Harbour"

CHAPTER III

OF PUNISHMENTS

53. "Punishments"

53-A. Construction of reference to transportation

54. Commutation of sentence of death

55. Commutation of sentence of imprisonment for life

55-A. Definition of "appropriate Government"

56. Sentence of Europeans and Americans to penal servitude.
Proviso as to sentence for term exceeding ten years but not for life

57. Fractions of terms of punishment
58. Offenders sentenced to transportation how dealt with until transported
59. Transportation instead of imprisonment
60. Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple
61. Sentence of forfeiture of property
62. Forfeiture of property in respect of offenders punishable with death, transportation or imprisonment
63. Amount of fine
64. Sentence of imprisonment for non-payment of fine
65. Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable
66. Description of imprisonment for non-payment of fine
67. Imprisonment for non-payment of fine, when offence punishable with fine only
68. Imprisonment to terminate on payment of fine
69. Termination of imprisonment on payment of proportional part of fine
70. Fine leviable within six years, or during imprisonment. Death not to discharge property from liability
71. Limit of punishment of offence made up of several offences
72. Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which
73. Solitary confinement
74. Limit of solitary confinement
75. Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction

CHAPTER IV

GENERAL EXCEPTIONS

76. Act done by a person bound, or by mistake of fact believing himself bound, by law

77. Act of Judge when acting judicially

78. Act done pursuant to the judgment or order of Court

79. Act done by a person justified, or by mistake of fact believing himself justified, by law

80. Accident in doing a lawful act

81. Act likely to cause harm, but done without criminal intent, and to prevent other harm

82. Act of a child under seven years of age

83. Act of a child above seven and under twelve of immature understanding

84. Act of a person of unsound mind

85. Act of a person incapable of judgment by reason of intoxication caused against his will

86. Offence requiring a particular intent or knowledge committed by one who is intoxicated

87. Act not intended and not known to be likely to cause death or grievous hurt, done by consent

88. Act not intended to cause death, done by consent in good faith for person's benefit

89. Act done in good faith for benefit of child or insane person, by or by consent of guardian

90. Consent known to be given under fear or misconception

91. Exclusion of acts which are offences independently of harm caused

92. Act done in good faith for benefit of a person without consent

93. Communication made in good faith

94. Act to which a person is compelled by threats

95. Act causing slight harm

Of the right of private defence

- 96. Things done in private defence
- 97. Right of private defence of the body and of property
- 98. Right of private defence against the act of a person of unsound mind, etc
- 99. Acts against which there is no right of private defence
- 100. When the right of private defence of the body extends to causing death
- 101. When such right extends to causing any harm other than death
- 102. Commencement and continuance of the right of private defence of the body
- 103. When the right of private defence of property extends to causing death
- 104. When such right extends to causing any harm other than death
- 105. Commencement and continuance of the right of private defence of property
- 106. Right of private defence against deadly assault when there is risk of harm to innocent person

CHAPTER V

OF ABETMENT

- 107. Abetment of a thing
- 108. Abettor
- 108-A. Abetment in India of offences outside India
- 109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment
- 110. Punishment of abetment if person abetted does act with different intention from that of abettor
- 111. Liability of abettor when one act abetted and different act

done

112. Abettor when liable to cumulative punishment for act abetted and for act done

113. Liability of abettor for an effect caused by the act abetted different from that intended by the abettor

114. Abettor present when offence is committed

115. Abetment of offence punishable with death or imprisonment for life—if offence not committed

116. Abetment of offence punishable with imprisonment—if offence be not committed

117. Abetting commission of offence by the public or by more than ten persons

118. Concealing design to commit offence punishable with death or imprisonment for life

119. Public servant concealing design to commit offence which it is his duty to prevent

120. Concealing design to commit offence punishable with imprisonment

CHAPTER V-A

CRIMINAL CONSPIRACY

120-A. Definition of criminal conspiracy

120-B. Punishment of criminal conspiracy

CHAPTER VI

OF OFFENCES AGAINST THE STATE

121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India

121-A. Conspiracy to commit offences punishable by Section 121

122. Collecting arms, etc., with intention of waging war against the Government of India

123. Concealing with intent to facilitate design to wage war

124. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power

124-A. Sedition

125. Waging war against any Asiatic Power in alliance with the Government of India

126. Committing depredation on territories of Power at peace with the Government of India

127. Receiving property taken by war or depredation mentioned in Sections 125 and 126

128. Public servant voluntarily allowing prisoner of State or war to escape

129. Public servant negligently suffering such prisoner to escape

130. Aiding escape of, rescuing or harbouring such prisoner

CHAPTER VII

OF OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

131. Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty

132. Abetment of mutiny, if mutiny is committed in consequence thereof

133. Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office

134. Abetment of such assault, if the assault is committed

135. Abetment of desertion of soldier, sailor or airman

136. Harbouring deserter

137. Deserter concealed on board merchant vessel through negligence of master

138. Abetment of act of insubordination by soldier, sailor or airman

138-A. Application of foregoing sections to the Indian Marine Service

139. Persons subject to certain Acts

140. Wearing garb or carrying token used by soldier, sailor or airman

CHAPTER VIII

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

141. Unlawful assembly

142. Being member of unlawful assembly

143. Punishment

144. Joining unlawful assembly armed with deadly weapon

145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse

146. Rioting

147. Punishment for rioting

148. Rioting, armed with deadly weapon

149. Every member of unlawful assembly guilty of offence committed in prosecution of common object

150. Hiring, or conniving at hiring, of persons to join unlawful assembly

151. Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse

152. Assaulting or obstructing public servant when suppressing riot, etc

153. Wantonly giving provocation with intent to cause riot—if rioting be committed — if not committed

153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony

153-AA. Punishment for knowingly carrying arms in any procession or organising, or holding or taking part in any mass drill or mass training with arms

153-B. Imputations, assertions prejudicial to national integration

154. Owner or occupier of land on which an unlawful assembly is

held

155. Liability of person for whose benefit riot is committed

156. Liability of agent of owner or occupier for whose benefit riot is committed

157. Harboursing persons hired for an unlawful assembly

158. Being hired to take part in an unlawful assembly or riot

159. Affray

160. Punishment for committing affray

CHAPTER IX

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

161. Public servant taking gratification other than legal remuneration in respect of an official act

162. Taking gratification, in order, by corrupt or illegal means, to influence public servant

163. Taking gratification, for exercise of personal influence with public servant

164. Punishment for abetment by public servant of offences defined in Section 162 or Section 163

165. Public servant obtaining valuable thing, without consideration, from person concerned in proceeding or business transacted by such public servant

165-A. Punishment for abetment of offences defined in Section 161 or Section 165

166. Public servant disobeying law, with intent to cause injury to any person

166-A. Public servant disobeying direction under law

166-B. Punishment for non-treatment of victim

167. Public servant framing an incorrect document with intent to cause injury

168. Public servant unlawfully engaging in trade

- 169. Public servant unlawfully buying or bidding for property
- 170. Personating a public servant
- 171. Wearing garb or carrying token used by public servant with fraudulent intent

CHAPTER IX-A

OF OFFENCES RELATING TO ELECTIONS

- 171-A. "Candidate", "Electoral right" defined
- 171-B. Bribery
- 171-C. Undue influence at elections
- 171-D. Personation at elections
- 171-E. Punishment for bribery
- 171-F. Punishment for undue influence or personation at an election
- 171-G. False statement in connection with an election
- 171-H. Illegal payments in connection with an election
- 171-I. Failure to keep election accounts

CHAPTER X

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

- 172. Absconding to avoid service of summons or other proceeding
- 173. Preventing service of summons or other proceeding, or preventing publication thereof
- 174. Non-attendance in obedience to an order from public servant
 - 174-A. Non-appearance in response to a proclamation under Section 82 of Act 2 of 1974
- 175. Omission to produce document or electronic record to public servant by person legally bound to produce it
- 176. Omission to give notice or information to public servant by person legally bound to give it
- 177. Furnishing false information

178. Refusing oath or affirmation when duly required by public servant to make it

179. Refusing to answer public servant authorised to question

180. Refusing to sign statement

181. False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation

182. False information, with intent to cause public servant to use his lawful power to the injury of another person

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

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

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

186. Obstructing public servant in discharge of public functions

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

188. Disobedience to order duly promulgated by public servant

189. Threat of injury to public servant

190. Threat of injury to induce person to refrain from applying for protection to public servant

CHAPTER XI

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

191. Giving false evidence

192. Fabricating false evidence

193. Punishment for false evidence

194. Giving or fabricating false evidence with intent to procure conviction of capital offence

195. Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment

- 195-A. Threatening any person to give false evidence
- 196. Using evidence known to be false
- 197. Issuing or signing false certificate
- 198. Using as true a certificate known to be false
- 199. False statement made in declaration which is by law receivable as evidence
- 200. Using as true such declaration knowing it to be false
- 201. Causing disappearance of evidence of offence, or giving false information to screen offender
- 202. Intentional omission to give information of offence by person bound to inform
- 203. Giving false information respecting an offence committed
- 204. Destruction of document or electronic record to prevent its production as evidence
- 205. False personation for purpose of act or proceeding in suit or prosecution
- 206. Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution
- 207. Fraudulent claim to property to prevent its seizure as forfeited or in execution
- 208. Fraudulently suffering decree for sum not due
- 209. Dishonestly making false claim in Court
- 210. Fraudulently obtaining decree for sum not due
- 211. False charge of offence made with intent to injure
- 212. Harboursing offender
- 213. Taking gift, etc., to screen an offender from punishment
- 214. Offering gift or restoration of property in consideration of screening offender
- 215. Taking gift to help to recover stolen property, etc

216. Harboursing offender who has escaped from custody or whose apprehension has been ordered

216-A. Penalty for harboursing robbers or dacoits

216-B. Definition of "harbour" in Sections 212, 216 and 216-A

217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture

218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture

219. Public servant in judicial proceeding corruptly making report, etc., contrary to law

220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law

221. Intentional omission to apprehend on the part of public servant bound to apprehend

222. Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed

223. Escape from confinement or custody negligently suffered by public servant

224. Resistance or obstruction by a person to his lawful apprehension

225. Resistance or obstruction to lawful apprehension of another person

225-A. Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for

225-B. Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for

226. Unlawful return from transportation

227. Violation of condition of remission of punishment

228. Intentional insult or interruption to public servant sitting in judicial proceeding

228-A. Disclosure of identity of the victim of certain offences, etc

229. Personation of a juror or assessor

229-A. Failure by person released on bail or bond to appear in Court

CHAPTER XII

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

230. "Coin" defined

231. Counterfeiting coin

232. Counterfeiting Indian coin

233. Making or selling instrument for counterfeiting coin

234. Making or selling instrument for counterfeiting Indian coin

235. Possession of instrument, or material for the purpose of using the same for counterfeiting coin

236. Abetting in India the counterfeiting out of India of coin

237. Import or export of counterfeit coin

238. Import or export of counterfeits of the Indian coin

239. Delivery of coin, possessed with knowledge that it is counterfeit

240. Delivery of Indian coin, possessed with knowledge that it is counterfeit

241. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit

242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof

243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof

244. Person employed in mint causing coin to be of different weight or composition from that fixed by law

245. Unlawfully taking coining instrument from mint

246. Fraudulently or dishonestly diminishing weight or altering composition of coin

247. Fraudulently or dishonestly diminishing weight or altering composition of Indian coin

248. Altering appearance of coin with intent that it shall pass as coin of different description

249. Altering appearance of Indian coin with intent that it shall pass as coin of different description

250. Delivery of coin possessed with knowledge that it is altered

251. Delivery of Indian coin, possessed with knowledge that it is altered

252. Possession of coin by person who knew it to be altered when he became possessed thereof

253. Possession of Indian coin by person who knew it to be altered when he became possessed thereof

254. Delivery of coin as genuine which, when first possessed, the deliverer did not know to be altered

255. Counterfeiting Government stamp

256. Having possession of instrument or material for counterfeiting Government stamp

257. Making or selling instrument for counterfeiting Government stamp

258. Sale of counterfeit Government stamp

259. Having possession of counterfeit Government stamp

260. Using as genuine a Government stamp known to be counterfeit

261. Effacing, writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government

262. Using Government stamp known to have been before used

263. Erasure of mark denoting that stamp has been used

263-A. Prohibition of fictitious stamps

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

- 264. Fraudulent use of false instrument for weighing
- 265. Fraudulent use of false weight or measure
- 266. Being in possession of false weight or measure
- 267. Making or selling false weight or measure

Section 268 to 511

Penal Code, 1860 [Repealed]

[Act 45 of 1860]

[6th October,
1860]

Whereas it is expedient to provide a general Penal Code for ²[India];

It is enacted as follows:

Statement of Objects and Reasons of Amendment Act 43 of 1983.—There have been pressing demands inside and outside Parliament for the amendment of the law relating to rape so that it becomes more difficult for the offenders to escape conviction and severe penalties are imposed on those convicted. A petition was also presented to Lok Sabha on the subject suggesting inter alia, in-camera trial of rape cases and certain changes in the law of evidence especially in the matter of shifting the onus of proving consent of the victim to the accused if the latter were a policeman and it was proved that while on duty he had sexual intercourse with the prosecutrix. The Law Commission which was requested to study the subject has made recommendations for changes in the Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act in its 84th Report.

2. The recommendations of the Law Commission have been examined in consultation with the State Government, Various suggestions on the subject have also been received. In the light of the consultation with the State Government and the suggestions which have been received, it is proposed to make suitable changes in the Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act with respect mainly to the offence of rape. The changes proposed in the-Bill have been formulated principally on the basis of the following considerations:—

- (1) The law should be made more stringent without jeopardising considerations of fair trial;
- (2) the definition of rape should be amended to remove certain loopholes and inadequacies and to censure that consent should be

- vitiated unless it is real and given out of free choice;
- (3) minimum punishments for rape should be prescribed;
 - (4) the prosecutrix should be protected from the glare of embarrassing publicity during the investigatory as well as trial stages and any information leading to identification of the victim should not be disclosed.
 - (5) in the case of rape by a police officer or by a group of persons or by a person having a custodial control by virtue of his special position over the victim, once it is proved that sexual intercourse has taken place, the onus should be on the accused to prove that the sexual intercourse was with the consent of the woman.

3. The Bill seeks to achieve the above objects.

Statement of Objects and Reasons of Amendment Act 46 of 1983.—The increasing number of dowry deaths is a matter of serious concern. The extent of the evil has been commented upon by the Joint Committee of the Houses to examine the working of the Dowry Prohibition Act, 1961. Cases of cruelty by the husband and relatives of the husband which culminate in suicide by, or murder of the hapless woman concerned, constitute only a small fraction of the cases involving such cruelty. It is, therefore, proposed to amend the Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act suitably to deal effectively not only with cases of dowry deaths but also cases of cruelty to married woman by their in-laws.

2. The following are the changes which are proposed to be made:—

- (i) The Indian Penal Code is proposed to be amended to make cruelty to a woman by her husband or any relative of her husband punishable with imprisonment for a term which may extend to three years and also with fine. Wilful conduct of such a nature by the husband or any relative of the husband as is likely to drive the woman to commit suicide or cause grave physical or mental injury to her, and harassment of a woman by her husband or by any relative of her husband with a view to coercing her or any of her relatives to meet any unlawful demand for property would be punishable as cruelty. The offence will be cognizable if information relating to the commission of the offence is given to the officer-in-charge of a police station by the victim of the offence or a relative of the victim of the offence or in the absence of any such relative by any public servant authorised in this behalf by the State Government. It is also being provided that no Court shall take cognizance of the offence except upon a police report or a complaint made by the victim of the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or with the leave of the Court by any other person related to

her by blood, marriage or adoption (vide clauses 2, 5 and 6 of the Bill).

(ii) Provision is being made for inquest by Executive Magistrates and for post-mortem in all cases where a woman has, within seven years of her marriage, committed suicide or died in circumstances raising a reasonable suspicion that some other person has committed an offence. Postmortem is also being provided for in all cases where a married woman has died within seven years of her marriage and a relative of such woman has made a request in this behalf (vide Cls. 3 and 4 of the Bill).

(iii) The Indian Evidence Act, 1872 is being amended to provide that where a woman has committed suicide within a period of seven years from the date of her marriage and it is shown that her husband or any relative of her husband had subjected her to cruelty, the Court may presume that such suicide had been abetted by her husband or by such relative of her husband (vide clause 7 of the Bill).

3. The Bill seeks to achieve the above objects.

Statement of Objects and Reasons of Amendment Act 21 of 2000.—New communication systems and digital technology have made dramatic changes in the way we live. A revolution is occurring in the way people transact business. Businesses and consumers are increasingly using computers to create, transmit and store information in the electronic form instead of traditional paper documents. Information stored in electronic form has many advantages. It is cheaper, easier to store, retrieve and speedier to communicate. Although people are aware of these advantages they are reluctant to conduct business or conclude any transaction in the electronic form due to lack of appropriate legal framework. The two principal hurdles which stand in the way of facilitating electronic commerce and electronic governance are the requirements as to writing and signature for legal recognition. At present many legal provisions assume the existence of paper based records and documents and records which should bear signatures. The Law of Evidence is traditionally based upon paper based records and oral testimony. Since electronic commerce eliminates the need for paper based transactions, hence to facilitate e-commerce, the need for legal changes have become an urgent necessity. International trade through the medium of e-commerce is growing rapidly in the past few years and many countries have switched over from traditional paper based commerce to e-commerce.

2. The United Nations Commission on International Trade Law (UNCITRAL) adopted the Model Law on Electronic Commerce in 1996. The General Assembly of United Nations by its Resolution No. 51/162 dated 30th January, 1997 recommended that all States should give

favourable considerations to the said Model Law when they enact or revise their laws. The Model Law provides for equal legal treatment of users of electronic communication and paper based communication. Pursuant to a recent declaration by member countries, the World Trade Organisation is likely to form a work programme to handle its work in this area including the possible creation of multilateral trade deals through the medium of electronic commerce.

3. There is a need for bringing in suitable amendments in the existing laws in our country to facilitate e-commerce. It is, therefore, proposed to provide for legal recognition of electronic records and digital signatures. This will enable the conclusion of contracts and the creation of rights and obligations through the electronic medium. It is also proposed to provide for a regulatory regime to supervise the Certifying Authorities issuing digital Signature Certificates. To prevent the possible misuse arising out of transactions and other dealings concluded over the electronic medium, it is also proposed to create civil and criminal liabilities for contravention of the provisions of the proposed legislation.

4. With a view to facilitate Electronic Governance, it is proposed to provide for the use and acceptance of electronic records and digital signatures in the Government offices and its agencies. This will make the citizens interaction with the Government offices hassle free.

5. It is also proposed to make consequential amendments in the Indian Penal Code and the Indian Evidence Act, 1872 to provide for necessary changes in the various provisions which deal with offences relating to documents and paper based transactions. It is also proposed to amend the Reserve Bank of India Act, 1934 to facilitate electronic fund transfers between the financial institutions and banks and the Bankers' Books Evidence Act, 1891 to give legal sanctity for books of account maintained in the electronic form by the banks.

6. The proposal was also circulated to the State Governments. They have supported the proposed legislation and have also expressed urgency for such legislation.

7. The Bill seeks to achieve the above objectives.

Statement of Objects and Reasons of Amendment Act 10 of 2009.—The Information Technology Act was enacted in the year 2000 with a view to give a fillip to the growth of electronic based transactions, to provide legal recognition for e-commerce and e-transactions, to facilitate e-governance, to prevent computer based crimes and ensure security practices and procedures in the context of widest possible use of information technology worldwide.

2. With proliferation of information technology enabled services such as e-governance, e-commerce and e-transactions, protection of

personal data and information and implementation of security practices and procedures relating to these applications of electronic communications have assumed greater importance and they require harmonisation with the provisions of the Information Technology Act. Further, protection of Critical Information Infrastructure is pivotal to national security, economy, public health and safety, so it has become necessary to declare such infrastructure as a protected system so as to restrict its access.

3. A rapid increase in the use of computer and internet has given rise to new forms of crimes like publishing sexually explicit materials in electronic form, video voyeurism and breach of confidentiality and leakage of data by intermediary, e-commerce frauds like personation commonly known as Phishing, identity theft and offensive messages through communication services. So, penal provisions are required to be included in the Information Technology Act, the Indian Penal Code, the Indian Evidence Act and the Code of Criminal Procedure to prevent such crimes.

4. The United Nations Commission on International Trade Law (UNCITRAL) in the year 2001 adopted the Model Law on Electronic Signatures. The General Assembly of the United Nations by its resolution No. 56/80, dated 12th December, 2001, recommended that all States accord favourable consideration to the said Model Law on Electronic Signatures. Since the digital signatures are linked to a specific technology under the existing provisions of the Information Technology Act, it has become necessary to provide for alternate technology of electronic signatures for bringing harmonisation with the said Model Law.

5. The service providers may be authorised by the Central Government or the State Government to set up, maintain and upgrade the computerised facilities and also collect, retain and appropriate service charges for providing such services at such scale as may be specified by the Central Government or the State Government.

6. The Bill seeks to achieve the above objects.

Statement of Objects and Reasons of Amendment Act 13 of 2013.—On the basis of the recommendations of the Law Commission of India in its One Hundred Seventy Second report on 'Review of Rape Laws' as well as the recommendations of the National Commission for Women for providing stringent punishment for the offence of rape, a High Power Committee was constituted consisting of the representatives of the Ministry of Women and Child Development, Ministry of Law and Justice, National Commission for Women, Law Commission of India and the Ministry of Home Affairs to examine the matter considering the suggestions of various quarters on the subject. The Committee submitted its report along with the draft Criminal Law

(Amendment) Bill, 2011 and recommended to the Government for its enactment. The draft Bill was further examined by the Government.

2. The Criminal Law (Amendment) Bill, 2012 seeks to amend the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872, inter alia, so as to—

- (a) substitute Sections 375, 376, 376-A and 376-B by replacing the existing Sections 375, 376, 376-A, 376-B, 376-C and 376-D of the Indian Penal Code, and replacing the word 'rape' wherever it occurs by the words 'sexual assault,' to make the offence of sexual assault gender neutral and also widening the scope of the offence of sexual assault;
- (b) include Sections 326-A and 326-B in the Indian Penal Code to make acid attack a specific offence;
- (c) enhance the punishment under Sections 354 and 509 of the Indian Penal Code, making the offence more stringent;
- (d) amend Sections 154, 160 and 161 of the Code of Criminal Procedure, 1973 for providing women and male person under the age of eighteen years or above the age of sixty-five years more protections;
- (e) amend the Indian Evidence Act, 1872 by way of inserting a new Section 53-A wherein evidence of the character of the victim or of his or her previous sexual experience shall not be relevant or questioned.

3. The Bill seeks to achieve the above objectives.

Statement of Objects and Reasons of Amendment Act 22 of 2018.—Recent incidents of rape and gang rape on women under the age of sixteen years and twelve years have shaken the conscience of the entire Nation. Therefore, the offences of rape and gang rape on women under the age of sixteen years and twelve years required effective deterrence through legal provisions of more stringent punishment. Some of the incidents in recent years have been marked by increased brutality and violence perpetrated on minor girls. This has fueled demands from various sections of the society to make the penal provisions more stringent and effective, immediate arrest of the accused and ensure speedy trial in such cases.

2. As the Parliament was not in session and immediate action was required to be taken in this regard to make necessary amendments in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, the President promulgated the Criminal Law (Amendment) Ordinance, 2018 on 21st April, 2018.

3. It is, therefore, proposed to introduce the Criminal Law (Amendment) Bill, 2018 to replace the Criminal Law (Amendment)

Ordinance, 2018, which, inter alia, provides for—

- (a) punishment for the offence of rape from the minimum imprisonment of seven years to ten years, which is extendable to imprisonment for life;
- (b) punishment for the offence of rape on a woman under sixteen years of age shall be rigorous imprisonment for a term not less than twenty years but may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and shall also be liable to fine;
- (c) punishment for the offence of rape on a woman under twelve years of age shall be rigorous imprisonment for a term not less than twenty years but may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine or with death;
- (d) punishment for the offence of gang rape on a woman under sixteen years of age shall be imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine;
- (e) punishment for the offence of gang rape on a woman under twelve years of age shall be imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine or with death;
- (f) investigation in relation to all rape cases shall be completed within a period of two months from the date on which the information recorded by the officer-in-charge of the police station;
- (g) completion of inquiry or trial relating to the offence of rape, within a period of two months;
- (h) dispose of an appeal against a conviction or a acquittal in rape cases within a period of six months from the date of filing of the appeal;
- (i) the provisions of anticipatory bail shall not be applicable in cases of rape or gang rape of woman under sixteen and twelve years of age;
- (j) consequential amendments in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012 relating to the cases of rape, gang rape of the woman below the age of sixteen years, twelve years, repeat offenders, to extend the applicability of compulsory registration of FIRs, fine imposed to be paid to victim, facilitate better recording of evidence and protect the dignity of rape survivor and treatment free of cost in hospitals.

4. The Bill seeks to achieve the above objectives.

Chapter I INTRODUCTION

1. **Title and extent of operation of the Code.**—This Act shall be called the Indian Penal Code, and shall ³[extend to the whole of India ⁴[* * *]].

2. **Punishment of offences committed within India.**—Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within ⁵[India] ⁶[* * *].

3. **Punishment of offences committed beyond, but which by law may be tried within, India.**—Any person liable, by any ⁷[Indian law], to be tried for an offence committed beyond ⁸[India] shall be dealt with according to the provisions of this Code for any act committed beyond ⁹[India] in the same manner as if such act had been committed within ¹⁰[India].

¹¹[4. **Extension of Code to extra-territorial offences.**—The provisions of this Code apply also to any offence committed by—

¹²[(1) any citizen of India in any place without and beyond India;
(2) any person on any ship or aircraft registered in India wherever it may be;]

¹³[(3) any person in any place without and beyond India committing offence targeting a computer resource located in India.]

¹⁴[**Explanation.**—In this section—

(a) the word “offence” includes every act committed outside India which, if committed in India, would be punishable under this Code;

(b) the expression “computer resource” shall have the meaning assigned to it in clause (k) of sub-section (1) of Section 2 of the Information Technology Act, 2000 (21 of 2000).]

¹⁵[**Illustration**

¹⁶[* * *] A, ¹⁷[who is ¹⁸[a citizen of India]], commits a murder in Uganda. He can be tried and convicted of murder in any place in ¹⁹[India] in which he may be found.

²⁰[* * *]

²¹[5. **Certain laws not to be affected by this Act.**—Nothing in this Act shall affect the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the Government of India or the provisions of any special or local law.]

Chapter II GENERAL EXPLANATIONS

6. Definitions in the Code to be understood subject to exceptions.—Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions", though those exceptions are not repeated in such definition, penal provision or illustration.

Illustrations

(a) The sections, in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences, but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police-officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it".

► **Interpretation/Construction.**—Section 105 of Evidence Act can be looked upon as analogous to a proviso only if Section 6, IPC and Section 105, Evidence Act are viewed together. It is certainly difficult to see the purpose of Section 105 of the Evidence Act unless it is viewed in the context of Section 6, IPC, *Rishikesh Singh v. State*, 1968 SCC OnLine All 204 : AIR 1970 All 51 : 1970 Cri LJ 132 (FB).

7. Sense of expression once explained.—Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

8. Gender.—The pronoun "he" and its derivatives are used of any person, whether male or female.

9. Number.—Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

10. "Man", "Woman".—The word "man" denotes a male human being of any age : the word "woman" denotes a female human being of any age.

11. "Person".—The word "person" includes any Company or Association or body of persons, whether incorporated or not.

12. "Public".—The word "public" includes any class of the public, or any community.

13. "Queen".—²²[* * *]

²³[**14. "Servant of Government".**—The words "servant of Government"

denote any officer or servant continued, appointed or employed in India by or under the authority of Government.]

15. "British India".—²⁴[* * *]

16. "Government of India".—²⁵[* * *]

²⁶[17. "Government".—The word "Government" denotes the Central Government or the Government of a ²⁷[* * *] State.]

²⁸[18. "India".—"India" means the territory of India excluding the State of Jammu and Kashmir.]

19. "Judge".—The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person,—

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations

(a) A Collector exercising jurisdiction in a suit under Act 10 of 1859, is a Judge.

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment with or without appeal, is a Judge.

(c) A member of a panchayat which has power, under ²⁹Regulation VII, 1816, of the Madras Code, to try and determine suits, is a Judge.

(d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

20. "Court of Justice".—The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

Illustration

A panchayat acting under Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. "Public servant".—The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely:—

First.—³⁰[* * *]

Second.—Every Commissioned Officer in the Military, ³¹[Naval or Air] Forces ³²³³[* * *] of India];

³⁴[*Third*.—Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;]

Fourth.—Every officer of a Court of Justice (including a liquidator, receiver or commissioner) whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorised by a Court of Justice to perform any of such duties;

Fifth.—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.—Every officer of ³⁵[the Government] whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of ³⁶[the Government], or to make any survey, assessment or contract on behalf of ³⁷[the Government], or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of ³⁸[the Government], or to make, authenticate or keep any document relating to the pecuniary interests of ³⁹[the Government], or to prevent the infraction of any law for the protection of the pecuniary interests of ⁴⁰[the Government] ⁴¹[* * *];

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

⁴²[*Eleventh*.—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;]

⁴³[*Twelfth*.—Every person—

- (a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;
- (b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956).]

Illustration

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

⁴⁴[*Explanation 3.*—The word “election” denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.]

STATE AMENDMENTS

Rajasthan.—In its application to the State of Rajasthan, in Section 21 after clause twelfth the following new clause shall be *added*, namely:—

“*Thirteenth.*—Every person employed or engaged by any public body in the conduct and supervision of any examination recognised or approved under any law.

Explanation.—The expression ‘Public Body’ includes—

- (a) a University, Board of Education or other body, either established by or under a Central or State Act or under the provisions of the Constitution of India or constituted by the Government; and
- (b) a local authority.” [Vide Rajasthan Act 4 of 1993, S. 2 (w.e.f. 9-1-1993).]

22. “Movable property”.—The words “movable property” are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

23. “Wrongful gain”.—“Wrongful gain” is gain by unlawful means of property to which the person gaining is not legally entitled.

“Wrongful loss”.—“Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

Gaining wrongfully, losing wrongfully.—A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when

such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

24. "Dishonestly".—Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly".

► **Wrongful Gain.**—The expression "wrongful gain" includes wrongful retention and wrongful loss includes being kept out of the property as well as being wrongfully deprived of property, *Krishan Kumar v. Union of India*, 1959 SCC OnLine SC 2.

25. "Fraudulently".—A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

► **Interpretation/Construction.**—The words "intent to defraud" are not synonymous with the words "intent to deceive" and require some action resulting in some disadvantage which but for the deception, the person deceived would have avoided, *S. Dutt (Dr) v. State of U.P.*, 1965 SCC OnLine SC 6.

26. "Reason to believe".—A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing but not otherwise.

27. Property in possession of wife, clerk or servant.—When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this section.

28. "Counterfeit".—A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

⁴⁵[*Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.]

29. "Document".—The word "document" denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the

evidence is intended for, or may be used in, a Court of Justice, or not.

Illustrations

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power-of-attorney is a document.

A map or plan which is intended to be used or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

Illustration

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words “pay to the holder” or words to that effect had been written over the signature.

► **Admissibility.**—The fact that a document was procured by improper or even illegal means will not be a bar to its admissibility, *Magraj Patodia v. R.K. Birla*, (1970) 2 SCC 888.

⁴⁶[29-A. **Electronic record.**—The words “electronic record” shall have the meaning assigned to them in clause (t) of sub-section (1) of Section 2 of the Information Technology Act, 2000.]

30. **“Valuable security”.**—The words “valuable security” denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a “valuable security”.

► **Forged Certificate.**—A certificate forged to get admission in college is not a valuable security, *Shriniwas Pandit v. State of Maharashtra*, (1980) 4 SCC 551 : 1981 SCC (Cri) 45.

31. **“A will”.**—The words “a will” denote any testamentary document.

32. **Words referring to acts include illegal omissions.**—In every part of this Code, except where a contrary intention appears from the

context, words which refer to acts done extend also to illegal omissions.

33. "Act", "Omission".—The word "act" denotes as well a series of acts as a single act : the word "omission" denotes as well a series of omissions as a single omission.

⁴⁷[**34. Acts done by several persons in furtherance of common intention.**—When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.]

► **Applicability.**—To attract applicability of Section 34 prosecution is under obligation to establish that there existed common intention which requires prearranged plan, *Indrapal Singh v. State of U.P.*, (2022) 4 SCC 631.

► **Ingredients, object and scope.**—Under Section 34, a pre-concert in the sense of distinct previous plan is not necessary to be proved. Essence of liability under Section 34, is conscious meeting of minds of persons participating in criminal action to bring about a particular result. Question whether there was any common intention or not depends upon inference to be drawn from proved facts and circumstances of each case. Totality of circumstances must be taken into consideration in arriving at conclusion whether accused had a common intention to commit offence with which they could be convicted, *Sudip Kumar Sen v. State of W.B.*, (2016) 3 SCC 26, See also *Surendra Chauhan v. State of M.P.*, (2000) 4 SCC 110 : 2000 SCC (Cri) 772.

► **Common intention.**—Where participation of the accused in the crime is proved but a common intention is absent, then Section 34 cannot be invoked, *Jai Bhagwan v. State of Haryana*, (1999) 3 SCC 102 : 1999 SCC (Cri) 388.

► **Proof or inference of common intention.**—Precedents cannot be used to establish common intention. Common intention has to be found out from facts of each case. Mere similarity of facts of one case cannot be used to determine existence of common intention in another case, *Ezajhussain Sabdarhussain v. State of Gujarat*, (2019) 14 SCC 339.

► **Inference of vicarious liability.**—In order to invoke principle of joint liability in commission of criminal act as laid down in Section 34, prosecution should show that criminal act in question was done by one of the accused persons in furtherance of common intention of all, *Virender v. State of Haryana*, (2020) 2 SCC 700.

► **Imposition of vicarious liability.**—Imposition of vicarious liability with aid of Section 34, when permissible and requirements of the same, explained. Significance of amendment made to Section 34 in 1870 adding the phrase "in furtherance of the common intention", also discussed. Necessity of proving that accused on whom vicarious liability is sought to be imposed shared common intention, determined. Case law surveyed in detail and principles summarized regarding how common intention is to be inferred and determined in each case, *Jasdeep Singh v. State of Punjab*, (2022) 2 SCC 545.

► **Prior concert.**—Common intention contemplated by Section 34 IPC pre-

supposes prior concert. It requires meeting of minds. It requires a prearranged plan before a man can be vicariously convicted for the criminal act of another. The criminal act must have been done in furtherance of the common intention of all the accused. In a given case, the plan can be formed suddenly, *Gadadhar Chandra v. State of W.B.*, (2022) 6 SCC 576.

► **Conviction with aid of Section 34 — Requirements.**—When a part of the evidence produced by the prosecution to bring the accused within the fold of Section 34 is disbelieved, the remaining part must be examined with adequate care and caution, *Shishpal v. State (NCT of Delhi)*, (2022) 9 SCC 782.

35. When such an act is criminal by reason of its being done with a criminal knowledge or intention.—Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

36. Effect caused partly by act and partly by omission.—Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

37. Co-operation by doing one of several acts constituting an offence.—When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effect of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint jailors, and as such have the charge of Z, a prisoner, alternatively for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(c) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B, A is guilty only of an attempt to commit murder.

38. Persons concerned in criminal act may be guilty of different offences.—Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration

(a) A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

39. "Voluntarily".—A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating robbery and thus causes the death of a person. Here, A may not have intended to cause death; and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

⁴⁸[**40. "Offence".**—Except in the ⁴⁹[Chapters] and sections mentioned in clauses 2 and 3 of this section, the word "offence" denotes a thing made punishable by this Code.

In Chapter IV, ⁵⁰[Chapter V-A] and in the following sections, namely, Sections ⁵¹[64, 65, 66, ⁵²[67], 71], 109, 110, 112, 114, 115, 116, 117, ⁵³[118, 119 and 120], 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word "offence" denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.

And in Sections 141, 176, 177, 201, 202, 212, 216 and 441, the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.]

41. **"Special law"**.—A "special law" is a law applicable to a particular subject.

42. **"Local law"**.—A "local law" is a law applicable only to a particular part of [54](#)[[55](#)[* * *][56](#)[India]].

43. **"Illegal", "Legally bound to do"**.—The word "illegal" is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be "legally bound to do" whatever it is illegal in him to omit.

► **Illegal Act**.—Pointing a gun at a person without legal excuse is an illegal act, *Kwaku Mensah v. King*, 1945 SCC OnLine PC 41 : AIR 1946 PC 20 : 47 Cri LJ 569.

► **Act or Omission which is prohibited by law**.—When omission to do something is unlawful, individual is legally bound to do it, *Common Cause v. Union of India*, (2018) 5 SCC 1.

44. **"Injury"**.—The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

45. **"Life"**.—The word "life" denotes the life of a human being, unless the contrary appears from the context.

46. **"Death"**.—The word "death" denotes the death of a human being unless the contrary appears from the context.

47. **"Animal"**.—The word "animal" denotes any living creature, other than a human being.

48. **"Vessel"**.—The word "vessel" denotes anything made for the conveyance by water of human beings or of property.

49. **"Year", "Month"**.—Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.

50. **"Section"**.—The word "section" denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.

51. **"Oath"**.—The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorised by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.

52. **"Good faith"**.—Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.

[57](#)[52-A. **"Harbour"**.—Except in Section 157, and in Section 130 in the case in which the harbour is given by the wife or husband of the person harboured, the word "harbour" includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade

apprehension.]

Chapter III OF PUNISHMENTS

53. "Punishments".—The punishments to which offenders are liable under the provisions of this Code are,—

First.—Death;

⁵⁸[*Secondly.*—Imprisonment for life;]

Thirdly.—⁵⁹[* * *];

Fourthly.—Imprisonment, which is of two descriptions, namely:—

(1) Rigorous, that is, with hard labour;

(2) Simple;

Fifthly.—Forfeiture of property;

Sixthly.—Fine.

► **Measure of Punishment.**—The fact that the accused is a budding lawyer is not a ground for a lesser sentence, *State of U.P. v. Paras Nath Singh*, (1973) 3 SCC 647 : 1973 SCC (Cri) 453.

► **Life imprisonment.**—Power to pass a modified sentence of life imprisonment, specifying a minimum non-remittable term of imprisonment in excess of 14 yrs, held, is available to High Courts and Supreme Court even in cases where the law does not prescribe the death sentence as one of the punishments and limits the maximum punishment to imprisonment for life with nothing further, *Ravinder Singh v. State (NCT of Delhi)*, (2024) 2 SCC 323.

⁶⁰[**53-A. Construction of reference to transportation.**—(1) Subject to the provisions of sub-section (2) and sub-section (3), any reference to "transportation for life" in any other law for the time being in force or in any instrument or order having effect by virtue of any such law or of any enactment repealed shall be construed as a reference to "imprisonment for life".

(2) In every case in which a sentence of transportation for a term has been passed before the commencement of the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), the offender shall be dealt with in the same manner as if sentenced to rigorous imprisonment for the same term.

(3) Any reference to transportation for a term or to transportation for any shorter term (by whatever name called) in any other law for the time being in force shall be deemed to have been omitted.

(4) Any reference to "transportation" in any other law for the time being in force shall,—

(a) if the expression means transportation for life, be construed as a reference to imprisonment for life;

(b) if the expression means transportation for any shorter term,

be deemed to have been omitted.]

54. Commutation of sentence of death.—In every case in which sentence of death shall have been passed, ⁶¹[the appropriate Government] may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

► **Validity of non-remittable special category sentence in substitution of death sentence.**—Life imprisonment in terms of Sections 53 and 45 IPC means imprisonment for rest of the life of the convict. Special category sentence, in substitution of death sentence, that is, sentence barring remission under CrPC for specified term beyond 14 years, is valid, *Union of India v. V. Sriharan*, (2016) 7 SCC 1.

55. Commutation of sentence of imprisonment for life.—In every case in which sentence of ⁶²[imprisonment] for life shall have been passed, ⁶³[the appropriate Government] may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

⁶⁴[**55-A. Definition of “appropriate Government”.**—In Sections 54 and 55 the expression “appropriate Government” means,—

(a) in cases where the sentence is a sentence of death or is for an offence against any law relating to a matter to which the executive power of the Union extends, the Central Government; and

(b) in cases where the sentence (whether of death or not) is for an offence against any law relating to a matter to which the executive power of the State extends, the Government of the State within which the offender is sentenced.]

56. Sentence of Europeans and Americans to penal servitude. Proviso as to sentence for term exceeding ten years but not for life.—⁶⁵[* * *]

57. Fractions of terms of punishment.—In calculating fractions of terms of punishment, ⁶⁶[imprisonment] for life shall be reckoned as equivalent to ⁶⁷[imprisonment] for twenty years.

► **Sentence of life imprisonment.**—Spending 13½ years in jail does not mean that death convict has undergone a sentence for life. Nor can it be pleaded that his death sentence was converted to life imprisonment. A sentence of life imprisonment means entire life and not merely 14 years in jail, *Mohd. Arif v. Supreme Court of India*, (2014) 9 SCC 737 : (2014) 5 SCC (Cri) 408.

58. Offenders sentenced to transportation how dealt with until transported.—⁶⁸[* * *]

59. Transportation instead of imprisonment.—⁶⁹[* * *]

60. Sentence may be (in certain cases of imprisonment) wholly or

partly rigorous or simple.—In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

61. Sentence of forfeiture of property.—⁷⁰[* * *]

62. Forfeiture of property in respect of offenders punishable with death, transportation or imprisonment.—⁷¹[* * *]

63. Amount of fine.—Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

► **Amount of fine to be imposed.**—Where no sum is expressed to which a fine may extend, amount of fine should not be excessive but, where law in question or provision concerned stipulates the quantum or minimum amount of fine, courts must be guided by such specification, *Sharad Hiru Kolambe v. State of Maharashtra*, (2018) 18 SCC 718.

64. Sentence of imprisonment for non-payment of fine.—⁷²[In every case, of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable ⁷³[with imprisonment or fine, or] with fine only, in which the offender is sentenced to a fine,]

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

65. Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.—The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

► **Exercise of Power.**—While a Magistrate's powers are specifically limited by Section 33, CrPC, they must also be so exercised as not to contravene Section 65, IPC, *Chhaju Lal v. State of Rajasthan*, (1972) 3 SCC 411 : 1972 SCC (Cri) 561.

66. Description of imprisonment for non-payment of fine.—The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been

sentenced for the offence.

67. Imprisonment for non-payment of fine, when offence punishable with fine only.—If the offence be punishable with fine only, ⁷⁴[the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

68. Imprisonment to terminate on payment of fine.—The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

69. Termination of imprisonment on payment of proportional part of fine.—If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

70. Fine leviable within six years, or during imprisonment. Death not to discharge property from liability.—The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

71. Limit of punishment of offence made up of several offences.—Where anything which is an offence is made up of parts, any of which

parts is itself an offence, the offender shall not be punished with the punishment of more than one of such of his offences, unless it be so expressly provided.

⁷⁵[Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.]

Illustrations

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow to Y.

72. Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.—In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

73. Solitary confinement.—Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

a time not exceeding one month if the term of imprisonment shall not exceed six months;

a time not exceeding two months if the term of imprisonment shall exceed six months and ⁷⁶[shall not exceed one] year;

a time not exceeding three months if the term of imprisonment shall exceed one year.

74. Limit of solitary confinement.—In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded with intervals between the periods of solitary confinement of not less duration than such periods.

77[75. Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction.—Whoever, having been convicted,—

(a) by a Court in ⁷⁸[India], of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, ⁷⁹[* * *]

(b) ⁸⁰[* * *]

shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to ⁸¹[imprisonment for life], or to imprisonment of either description for a term which may extend to ten years.]

Chapter IV

GENERAL EXCEPTIONS

76. Act done by a person bound, or by mistake of fact believing himself bound, by law.—Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Illustrations

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

77. Act of Judge when acting judicially.—Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

78. Act done pursuant to the judgment or order of Court.—Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person

doing the act in good faith believes that the Court had such jurisdiction.

79. Act done by a person justified, or by mistake of fact believing himself justified, by law.—Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

Illustration

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment, exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the act, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

► **Criminal negligence.**—Grant of no-objection certificates by authorities, and renewal of cinematograph license from time to time, does not relieve the occupiers/licensees of their obligations which are implicit in the issue and renewal of the cinematograph licence, *Sushil Ansal v. State*, (2014) 6 SCC 173 : (2014) 2 SCC (Cri) 717.

80. Accident in doing a lawful act.—Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

► **Ingredients.**—To claim the benefit of this provision it has to be shown : (1) that the act in question was without any criminal intention or knowledge, (2) that the act was being done in a lawful manner by lawful means; and (3) that act was being done with proper care and caution, *Atmendra v. State of Karnataka*, (1998) 4 SCC 256 : 1998 SCC (Cri) 827.

81. Act likely to cause harm, but done without criminal intent, and to prevent other harm.—Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations

(a) A, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before

he can stop his vessel, he must inevitably run down a boat *B*, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat *C* with only two passengers on board, which he may possibly clear. Here, if *A* alters his course without any intention to run down the boat *C* and in good faith for the purpose of avoiding the danger to the passengers in the boat *B*, he is not guilty of an offence, though he may run down the boat *C* by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat *C*.

(b) *A*, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse *A*'s act, *A* is not guilty of the offence.

► **Criminal intention.**—Protection to act done with knowledge that it is likely to cause harm is available when act is done without criminal intent to cause harm, in good faith and for preventing other harm, *Common Cause v. Union of India*, (2018) 5 SCC 1.

82. Act of a child under seven years of age.—Nothing is an offence which is done by a child under seven years of age.

83. Act of a child above seven and under twelve of immature understanding.—Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

84. Act of a person of unsound mind.—Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

► **Unsoundness of mind.**—For impairment of cognitive faculties of mind rendering accused incapable of knowing nature of the act committed, legal insanity, not medical insanity, needs to be proved. Test of prudent man to be applied. Conduct of accused shortly before, at the time of and immediately after commission of crime, are relevant, *Prakash Nayi v. State of Goa*, (2023) 5 SCC 673.

Pleas of unsoundness of mind under Section 84 IPC or mitigating circumstances like juvenility of age, ordinarily, ought to be raised during trial itself. Belated claims not only prevent proper production and appreciation of evidence, but they also undermine genuineness of defence's case, *Mohd. Anwar v. State (NCT of Delhi)*, (2020) 7 SCC 391.

► **Defence of insanity.**—It remains trite that the burden of proving the

existence of circumstances so as to bring the case within the purview of Section 84-IPC lies on the accused in terms of Section 105 of the Evidence Act; and where the accused is charged of murder, the burden to prove that as a result of unsoundness of mind, the accused was incapable of knowing the consequences of his acts is on the defence, *Prem Singh v. State (NCT of Delhi)*, (2023) 3 SCC 372, See also *Mohd. Anwar v. State (NCT of Delhi)*, (2020) 7 SCC 391.

85. Act of a person incapable of judgment by reason of intoxication caused against his will.—Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law : provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

► **Onus of Proof.**—Defence of intoxication can be availed of only when intoxication produces such a condition as accused loses the requisite intention for the offence and onus of proof about reason of intoxication, due to which accused had become incapable of having a particular knowledge in forming particular intention, is on the accused, *Suraj Jagannath Jadhav v. State of Maharashtra*, (2020) 2 SCC 693.

► **Intoxication.**—Voluntary intoxication is not a plea recognized as an exception to criminal liability, *Chet Ram v. State*, 1971 SCC OnLine HP 43 : 1971 Cri LJ 1246.

86. Offence requiring a particular intent or knowledge committed by one who is intoxicated.—In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

► **Drunkenness when a defence or mitigating factor.**—So far as knowledge is concerned, in cases of voluntary drunkenness, knowledge is to be presumed in the same manner as if there was no drunkenness. So far as intention is concerned, it must be gathered from the attending general circumstances of the case paying due regard to the degree of intoxication. The rule to be applied is that a man is presumed to intend the natural consequences of his act or acts, *Paul v. State of Kerala*, (2020) 3 SCC 115.

► **Defence of being under the influence of liquor.**—Mere intoxication is not enough to attract Section 86, *Chherturam v. State of Chhattisgarh*, (2022) 9 SCC 571.

► **Murder or culpable homicide.**—Plea as to absence of requisite intention of killing is not material, when the material on record did not indicate that the appellant did the offending acts in a state of intoxication so as to give rise to a doubt about intention with reference to the principles underlying Section 86, *Prem*

■ *Singh v. State (NCT of Delhi), (2023) 3 SCC 372.*

87. Act not intended and not known to be likely to cause death or grievous hurt, done by consent.—Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which in the course of such fencing, may be caused without foul play; and if A, while playing fairly hurts Z, A commits no offence.

88. Act not intended to cause death, done by consent in good faith for person's benefit.—Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death and intending in good faith, Z's benefit performs that operation on Z, with Z's consent. A has committed no offence.

89. Act done in good faith for benefit of child or insane person, by or by consent of guardian.—Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person : Provided—

Provisos.—*First.*—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the

curing of any grievous disease or infirmity;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration

A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon. Knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

90. Consent known to be given under fear or misconception.—A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

Consent of insane person.—if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

Consent of child.—unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

91. Exclusion of acts which are offences independently of harm caused.—The exceptions in Sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence "by reason of such harm"; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

92. Act done in good faith for benefit of a person without consent.—Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit : Provided—

Provisos.—*First.*—That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations

(a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is no time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(d) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of Sections 88, 89 and 92.

► **Good Faith.**—Act done in good faith for benefit of another person, even if it causes unintended harm to that person protected under Section 92. Such act would be protected even if it was not possible to obtain consent of that person, *Common Cause v. Union of India*, (2018) 5 SCC 1.

93. Communication made in good faith.—No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. Act to which a person is compelled by threats.—Except murder,

and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence:

Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

95. Act causing slight harm.—Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the right of private defence

96. Things done in private defence.—Nothing is an offence which is done in the exercise of the right of private defence.

► **Right to private defence.**—Self-preservation is the basic human instinct and is duly recognised by the criminal jurisprudence of all civilised countries. All free, democratic and civilised countries recognise the right of private defence within certain limits. Principles relating to right of private defence, summarised, *Sukumaran v. State*, (2019) 15 SCC 117.

97. Right of private defence of the body and of property.—Every person has a right, subject to the restrictions contained in Section 99, to defend—

First.—His own body, and the body of any other person, against any offence affecting the human body;

Secondly.—The property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

98. Right of private defence against the act of a person of unsound mind, etc.—When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the

person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

(a) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter Z, in good faith, taking A for a house breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

99. Acts against which there is no right of private defence.—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.

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.

⁸²[*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.]

► **Right of private defence of body.**—To claim such a right, the accused must be able to demonstrate that the circumstances were such that there existed a reasonable ground to apprehend that he would suffer grievous hurt that would even cause death. Thus, necessity of averting an impending danger, held, is the core criteria for exercising such a right, *Mahadev v. Border Security Force*, (2022) 8 SCC 502.

101. When such right extends to causing any harm other than death.—If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in Section 99, to the voluntary causing to the assailant of any harm other than death.

102. Commencement and continuance of the right of private defence of the body.—The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as apprehension of danger to the body continues.

► **Exercise of right of private defence.**—To say that a person can only claim the right to use force after he has sustained a serious injury by an aggressive wrongful assault is a complete misunderstanding of the law embodied in Section 102, IPC, *Deo Narayan v. State of U.P.*, (1973) 1 SCC 347 : 1973 SCC (Cri) 330.

103. When the right of private defence of property extends to causing death.—The right of private defence of property extends, under the restrictions mentioned in Section 99, to the voluntary causing of

death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:—

First.—Robbery;

Secondly.—House-breaking by night;

Thirdly.—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

Fourthly.—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

STATE AMENDMENTS

Karnataka.—In its application to the State of Karnataka, in Section 103—

(1) in clause thirdly,—

(i) after the words “mischief by fire”, the words “or any explosive substance” shall be *inserted*;

(ii) after the words “as a human dwelling or”, the words “as a place of worship or” shall be *inserted*.

(2) after clause Fourthly, the following clause shall be inserted, namely:—

“Fifthly.—Mischief by fire or any explosive substance committed on any property used or intended to be used for the purpose of Government or any local authority, statutory body or company owned or controlled by Government or railway or on any vehicle used or adapted to be used for the carriage of passengers for hire or reward.” [Vide Karnataka Act 8 of 1972, S. 2, dt. 7-10-1972.]

Maharashtra.—In its application to the State of Maharashtra, in Section 103, add the following at the end, namely:—

“Fifthly.—Mischief by fire or any explosive substance committed on any property used or intended to be used for the purposes of any Government or any local authority, statutory body, company owned or controlled by Government, railway or tramway, or on any vehicle used or adapted to be used, for the carriage of passengers for hire or reward.” [Vide Maharashtra Act 19 of 1971, S. 26. dt. 31-12-1971.]

Uttar Pradesh.—In its application to the State of Uttar Pradesh, in Section 103, after clause fourthly, add the following clause, namely:—

“Fifthly.—Mischief by fire or any explosive substance committed on—

(a) any property used or intended to be used for the purpose of

Government or any local authority or other corporation owned or controlled by Government; or

(b) any railway as defined in clause (4) of Section 3 of the Indian Railways Act, 1890 or railways stores as defined in the Railways Stores (Unlawful Possession) Act, 1955; or

(c) any transport vehicle as defined in clause (33) of Section 2 of the Motor Vehicles Act, 1939." [Vide U.P. Act 29 of 1970, S. 2, dt. 17-7-1970.]

104. When such right extends to causing any harm other than death.

—If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in Section 99, to the voluntary causing to the wrong-doer of any harm other than death.

► **Applicability.**—If the threat to the person or property which the accused was entitled to defend was real and immediate he was not required to weigh in golden scales the kind of instrument and the force which he used at the spur of the moment, *Paridihat v. State of M.P.*, (1972) 4 SCC 694 .

105. Commencement and continuance of the right of private defence of property.—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

106. Right of private defence against deadly assault when there is risk of harm to innocent person.—If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

Chapter V OF ABETMENT

107. Abetment of a thing.—A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

► **Abetment.**—“Abetment” involves mental process of instigating a person or intentionally aiding a person in doing of a thing, *Kanchan Sharma v. State of U.P.*, (2021) 13 SCC 806.

To constitute abetment, there must be course of conduct or action of intentionally aiding or facilitating another person to end life, *Common Cause v. Union of India*, (2018) 5 SCC 1.

► **Abetment by conspiracy.**—Abetment by conspiracy is only one form of abetment. There can be alternate charges. There can be abetment by instigation and intentional acting even when there is no conspiracy and, therefore, no abetment by conspiracy, *Somasundaram v. State*, (2020) 7 SCC 722.

► **Punishment for abetment.**—Punishment for abetment varies according to different circumstances. The effect of, (i) if the act abetted is not committed, and (ii) where the actual player who commits the offence is not criminally liable, on

punishment for abetment, explained, *Somasundaram v. State*, (2020) 7 SCC 722.

108. Abettor.—A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations

(a) A, with a guilty intention, abets a child or lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d) A, intending to cause a theft to be committed, instigates B to

take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and, as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder.

[83](#)[108-A. Abetment in India of offences outside India.—A person abets an offence within the meaning of this Code who, in [84](#)[India], abets the commission of any act without and beyond [85](#)[India] which would constitute an offence if committed in [86](#)[India].

Illustration

A, in [87](#)[India], instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder.]

109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.—Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in S. 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

► **Abetment by conspiracy.**—Abetment by conspiracy is only one form of abetment. There can be alternate charges. There can be abetment by instigation and intentional acting even when there is no conspiracy and, therefore, no abetment by conspiracy, *Somasundaram v. State*, (2020) 7 SCC 722.

110. Punishment of abettor if person abetted does act with different intention from that of abettor.—Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

111. Liability of abettor when one act abetted and different act done.—When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

Proviso.—Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment. A is liable in the same manner

and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

112. Abettor when liable to cumulative punishment for act abetted and for act done.—If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration

A instigates B to resist by force a distress made by a public servant. B, in consequence resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress A will also be liable to punishment for each of the offences.

113. Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.—When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, caused a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

114. Abettor present when offence is committed.—Whenever any person, who if absent would be liable to be punished as an abettor, is

present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

115. Abetment of offence punishable with death or imprisonment for life—if offence not committed.—Whoever abets the commission of an offence punishable with death or [88](#)[imprisonment for life], shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if act causing harm be done in consequence.—and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or [89](#)[imprisonment for life]. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine; and, if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

116. Abetment of offence punishable with imprisonment—if offence be not committed.—Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both;

if abettor or person abetted be a public servant whose duty it is to prevent offence.—and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official function. B refuses to accept the bribe. A is punishable under this section.

(b) A instigates B to give false evidence. Here, if B does not give

false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d) B abets the commission of a robbery by A, a police-officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

117. Abetting commission of offence by the public or by more than ten persons.—Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

118. Concealing design to commit offence punishable with death or imprisonment for life.—Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or ⁹⁰[imprisonment for life],

⁹¹[voluntarily conceals by any act or omission or by the use of encryption or any other information hiding tool, the existence of a design] to commit such offence or makes any representation which he knows to be false respecting such design,

if offence be committed — if offence be not committed.—shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description, for a term which may extend to three years; and in either case shall also be liable to fine.

Illustration

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

119. Public servant concealing design to commit offence which it is

his duty to prevent.—Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent;

⁹²[voluntarily conceals by any act or omission or by the use of encryption or any other information hiding tool, the existence of a design] to commit such offence, or makes any representation which he knows to be false respecting such design,

if offence be committed.—shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both;

if offence be punishable with death, etc.—or, if the offence be punishable with death or ⁹³[imprisonment for life], with imprisonment of either description for a term which may extend to ten years;

if offence be not committed.—or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment or with such fine as is provided for the offence, or with both.

Illustration

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

120. Concealing design to commit offence punishable with imprisonment.—Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

if offence be committed — if offence be not committed.—shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

⁹⁴[Chapter V-A

CRIMINAL CONSPIRACY

120-A. Definition of criminal conspiracy.—When two or more persons agree to do, or cause to be done,—

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

► **Criminal conspiracy — Essential ingredients.**—To prove the charge of criminal conspiracy the prosecution is required to establish that two or more persons had agreed to do or caused to be done, an illegal act or an act which is not legal, by illegal means. It is immaterial whether the illegal act is the ultimate object of such crime or is merely incidental to that object, *Saju v. State of Kerala*, (2001) 1 SCC 378 : 2001 SCC (Cri) 160.

120-B. Punishment of criminal conspiracy.—(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [95](#) [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]

► **General and separate Conspiracy.**—Where different groups of persons cooperate towards their separate ends without any privity with each other, each combination constitutes separate conspiracy, *State of Jharkhand v. Lalu Prasad*, (2017) 8 SCC 1.

► **Charge of criminal conspiracy.**—Prosecution must establish a connection between the alleged conspiracy and the act done pursuant to the said conspiracy, *Vijayan v. State of Kerala*, (1999) 3 SCC 54.

► **Proof of Conspiracy.**—A criminal conspiracy is generally hatched in secrecy, and it is difficult, if not impossible, to obtain direct evidence. Conspiracy is mostly proved by circumstantial evidence by taking into account the cumulative effect of the circumstances indicating the guilt of the accused, rather than adopting an approach by isolating the role played by each of the accused. The acts or conduct of the parties must be conscious and clear enough to infer their concurrence as to the common design and its execution, *State (NCT of Delhi) v. Shiv Charan Bansal*, (2020) 2 SCC 290.

► **Abetment by conspiracy.**—Abetment by conspiracy is only one form of abetment. There can be alternate charges. There can be abetment by instigation and intentional acting even when there is no conspiracy and, therefore, no abetment by conspiracy, *Somasundaram v. State*, (2020) 7 SCC 722.

Chapter VI

OF OFFENCES AGAINST THE STATE

121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.—Whoever wages war against the ⁹⁶[Government of India], or attempts to wage such war, or abets the waging of such war, shall be punished with death, or ⁹⁷[imprisonment for life], ⁹⁸[and shall also be liable to fine].

⁹⁹[Illustration]

(a) A joins an insurrection against the ¹⁰⁰[Government of India]. A has committed the offence defined in this section.

(b) ¹⁰¹[* * *]

¹⁰²[121-A. Conspiracy to commit offences punishable by Section 121.—Whoever within or without ¹⁰³[India] conspires to commit any of the offences punishable by Section 121, ¹⁰⁴[* * *] or conspires to overawe, by means of criminal force or the show of criminal force, ¹⁰⁵[the Central Government or any ¹⁰⁶[State] Government ¹⁰⁷[* * *]], shall be punished with ¹⁰⁸[imprisonment for life], or with imprisonment of either description which may extend to ten years, ¹⁰⁹[and shall also be liable to fine].

Explanation.—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.]

122. Collecting arms, etc., with intention of waging war against the Government of India.—Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the ¹¹⁰[Government of India], shall be punished with ¹¹¹[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, ¹¹²[and shall also be liable to fine].

123. Concealing with intent to facilitate design to wage war.—Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the ¹¹³[Government of India], intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be

punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

124. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.—Whoever, with the intention of inducing or compelling the [114](#)[President] of India, or the [115](#)[Governor [116](#)[* * *]] of any [117](#)[State], [118](#)[* * *] [119](#)[* * *] [120](#)[* * *] to exercise or refrain from exercising in any manner any of the lawful powers of such [121](#)[President or [122](#)[Governor [123](#)[* * *]]],

assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such [124](#)[President or [125](#)[Governor [126](#)[* * *]]],

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

[127](#)[124-A. Sedition.—Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, [128](#)[* * *] the Government established by law in [129](#)[India], [130](#)[* * *] shall be punished with [131](#)[imprisonment for life], to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression “disaffection” includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.]

[Ed.: Suspended by S.G. Vombatkere v. Union of India, 2022 SCC OnLine SC 609]

► **Constitutional validity.**—The rigours of Section 124-A IPC are not in tune with the current social milieu, and was intended for a time when this country was under the colonial regime. There is a requirement to balance both sets of considerations, which is a difficult exercise. Therefore, till the re-examination of the provision is complete, it will be appropriate not to continue the usage of the aforesaid provision of law by the Governments, S.G. Vombatkere v. Union of India, (2022) 7 SCC 433.

Section 124-A is constitutionally valid. The restrictions imposed on the freedom

of speech and expression are in the interest of public order and are within the ambit of permissible legislative interference with the fundamental right. But the section must be so construed as to limit its application to acts involving intention or tendency to create disorder or disturbance of law and order or incitement to violence, *Kedar Nath Singh v. State of Bihar*, 1962 SCC OnLine SC 6.

► **Sedition — Ingredients.**—Expression of a view which is a dissent from decision taken by Central Government, by itself, held, cannot be said to be seditious, *Rajat Sharma v. Union of India*, (2021) 5 SCC 585.

125. Waging war against any Asiatic Power in alliance with the Government of India.—Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the ¹³²[Government of India], or attempts to wage such war, or abets the waging of such war, shall be punished with ¹³³[imprisonment for life], to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

126. Committing depredation on territories of Power at peace with the Government of India.—Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the ¹³⁴[Government of India], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

127. Receiving property taken by war or depredation mentioned in Sections 125 and 126.—Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in Sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

128. Public servant voluntarily allowing prisoner of State or war to escape.—Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with ¹³⁵[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

129. Public servant negligently suffering such prisoner to escape.—Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years. and shall also be liable to fine.

130. Aiding escape of, rescuing or harbouring such prisoner.—Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner shall be punished with [136](#) [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in [137](#) [India], is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

Chapter VII

OF OFFENCES RELATING TO THE ARMY, [138](#) [NAVY AND AIR FORCE]

131. Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.—Whoever abets the committing of mutiny by an officer, soldier, [139](#) [sailor or airman], in the Army, [140](#) [Navy or Air Force] of the [141](#) [Government of India] or attempts to seduce any such officer, soldier, [142](#) [sailor or airman] from his allegiance or his duty, shall be punished with [143](#) [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

[144](#) [*Explanation.*—In this section the words “officer”, [145](#) [“soldier”, [146](#) [“sailor”] and “airman”] include any person subject to the [147](#) [Army Act, [148](#) [the Army Act, 1950 (46 of 1950)], [149](#) [the Naval Discipline Act, [150](#) [* * *] the Indian Navy (Discipline) Act, 1934 (34 of 1934)], [151](#) [the Air Force Act or [152](#) [the Air Force Act, 1950 (45 of 1950)]]], as the case may be].]

132. Abetment of mutiny, if mutiny is committed in consequence thereof.—Whoever abets the committing of mutiny by an officer, soldier, [153](#) [sailor or airman], in the Army, [154](#) [Navy or Air Force] of the [155](#) [Government of India], shall, if mutiny be committed in consequence of that abetment, be punished with death or with [156](#) [imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

133. Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.—Whoever abets an assault by an officer, soldier, [157](#) [sailor or airman], in the Army, [158](#) [Navy or Air

Force] of the [159](#)[Government of India], on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

134. Abetment of such assault, if the assault is committed.—Whoever abets an assault by an officer, soldier, [160](#)[sailor or airman], in the Army, [161](#)[Navy or Air Force] of the [162](#)[Government of India], on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

135. Abetment of desertion of soldier, sailor or airman.—Whoever abets the desertion of any officer, soldier, [163](#)[sailor or airman], in the Army, [164](#)[Navy or Air Force] of the [165](#)[Government of India], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

136. Harboursing deserter.—Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, [166](#)[sailor or airman], in the Army, [167](#)[Navy or Air Force] of the [168](#)[Government of India], has deserted, harbours such officer, soldier, [169](#)[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

137. Deserter concealed on board merchant vessel through negligence of master.—The master or person in charge of a merchant vessel, on board of which any deserter from the Army, [170](#)[Navy or Air Force] of the [171](#)[Government of India] is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

138. Abetment of act of insubordination by soldier, sailor or airman.—Whoever abets what he knows to be an act of insubordination by an officer, soldier, [172](#)[sailor or airman], in the Army, [173](#)[Navy or Air Force], of the [174](#)[Government of India], shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

138-A. Application of foregoing sections to the Indian Marine

Service.—¹⁷⁵[* * *].

139. **Persons subject to certain Acts.**—No person subject to ¹⁷⁶[the Army Act, ¹⁷⁷[the Army Act, 1950 (46 of 1950)], the Naval Discipline Act, ¹⁷⁸[¹⁷⁹[* * *] the Indian Navy (Discipline) Act, 1934 (34 of 1934)], ¹⁸⁰[the Air Force Act or ¹⁸¹[the Air Force Act, 1950 (45 of 1950)]]], is subject to punishment under this Code for any of the offences defined in this Chapter.

140. **Wearing garb or carrying token used by soldier, sailor or airman.**—Whoever, not being a soldier, ¹⁸²[sailor or airman] in the Military, ¹⁸³[Naval or Air] services of the ¹⁸⁴[Government of India], wears any garb or carries any token resembling any garb or token used by such a soldier, ¹⁸⁵[sailor or airman] with the intention that it may be believed that he is such a soldier, ¹⁸⁶[sailor or airman], 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.

Chapter VIII

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

141. **Unlawful assembly.**—An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, ¹⁸⁷[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or

Second.—To resist the execution of any law, or of any legal process; or

Third.—To commit any mischief or criminal trespass, or other offence; or

Fourth.—By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

► **Ingredients of unlawful assembly.**—The important ingredients of an

unlawful assembly are the number of persons forming it i.e. five; and their common object, *Manjit Singh v. State of Punjab*, (2019) 8 SCC 529.

► **Offence(s) committed in furtherance of common object of unlawful assembly.**—Scheme of Ss. 141 to 149, unlawful assembly and punishment for offence(s) committed in furtherance of common object of unlawful assembly, explained. There is implicit invocation of S. 141 when any of Ss. 142 to 149 is specifically invoked. Non-inclusion of S. 141 while framing charges, though charges framed under S. 149, is immaterial, *Dev Karan v. State of Haryana*, (2019) 8 SCC 596.

► **Innocent bystanders.**—Constructive Liability cannot be stretched to lead to false implication of innocent bystanders, *Taijuddin v. State of Assam*, (2022) 1 SCC 395.

142. Being member of unlawful assembly.—Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

143. Punishment.—Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

144. Joining unlawful assembly armed with deadly weapon.—Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.—Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

146. Rioting.—Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

147. Punishment for rioting.—Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

► **Rioting.**—Failure to attribute specific role to accused persons is not fatal, because in case of large number of assailants, it can be difficult for witnesses to identify each assailant and attribute specific role to him. Force or violence need not be by all accused, because every member of the unlawful assembly is guilty of the offence of rioting even though he may not have himself used force or violence,

■ **Lakshman Singh v. State of Bihar**, (2021) 9 SCC 191.

148. Rioting, armed with deadly weapon.—Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

► **Conviction.**—Conviction with aid of Sections 148/149 cannot be recorded in the absence of at least 5 accused : either at least 5 accused should stand convicted, or total number of convicted accused plus unnamed accused should not be less than 5, *Ramvir v. State of U.P.*, (2019) 2 SCC 237.

149. Every member of unlawful assembly guilty of offence committed in prosecution of common object.—If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

► **Ingredients for applicability of Section 149 or Section 120-B.**—In absence of evidence of any conspiracy or common object being established, accused are liable for their individual acts only. Moreover, mere presence does not make a person member of unlawful assembly unless he actively participates in rioting or does some overt act with necessary criminal intention or shares common object of unlawful assembly, *Vijay Pandurang Thakre v. State of Maharashtra*, (2017) 4 SCC 377.

► **Common object.**—It is necessary to establish common object before a person can be convicted with aid of S. 149, *Dauwalal v. State of M.P.*, (2019) 4 SCC 538.

Inference of common object of accused, held, in each case would depend upon cumulative effects of facts of that particular case, *Mahendran v. State of T.N.*, (2019) 5 SCC 67.

► **Common object to murder.**—When once, participation of each member of an unlawful assembly of five or more persons is shown, who indulge in an offence as a member of such an unlawful assembly, for the purposes of invoking Section 149, it is not necessary that there must be specific overt act played by each of the member of such an unlawful assembly in the commission of an offence, *Susanta Das v. State of Orissa*, (2016) 4 SCC 371.

150. Hiring, or conniving at hiring, of persons to join unlawful assembly.—Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or

employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

151. Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.—Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of Section 141, the offender will be punishable under Section 145.

152. Assaulting or obstructing public servant when suppressing riot, etc.—Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to 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.

153. Wantonly giving provocation with intent to cause riot—if rioting be committed — if not committed.—Whoever maliciously, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

¹⁸⁸[**153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.**—(1) Whoever—

- (a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or
- (b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs

or is likely to disturb the public tranquillity, ¹⁸⁹[or]

¹⁹⁰[(c) organises any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity, for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,]

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Offence committed in place of worship, etc.—(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

► **Interpretation/Construction.**—Words “whosoever makes, publishes or circulates” in Section 505(2) to be read conjunctively and as supplemental to each other. So read, while publication is essential under Section 505(2), it is not so in Section 153-A, *Amish Devgan v. Union of India*, (2021) 1 SCC 1.

► **“Attempt”.**—It is short of actual causation of crime and more than mere preparation. It is a deliberate act or step which manifests clear intention to commit offence aimed and is reasonably proximate to consummation of offence, *Amish Devgan v. Union of India*, (2021) 1 SCC 1.

► **“Public tranquillity”.**—This expression should be read in restricted sense, synonymous with public order and safety but not law and order. Public order includes acts of local significance which disturbs public order, *Amish Devgan v. Union of India*, (2021) 1 SCC 1.

► **Hate speech or controversial speech.**—In case of speech or publication, content should be something more than mere thought or preparation. Intent should be reasonably proximate to consummation of offence. As regards harm's element same test as applicable in case of “likely” would apply, provided, for intervening reasons or grounds public disorder or violence may not have taken place, *Amish Devgan v. Union of India*, (2021) 1 SCC 1.

¹⁹¹[153-AA. Punishment for knowingly carrying arms in any procession or organising, or holding or taking part in any mass drill or mass training with arms.—Whoever knowingly carries arms in any procession or organises or holds or takes part in any mass drill or mass

training with arms in any public place in contravention of any public notice or order issued or made under Section 144-A of the Code of Criminal Procedure, 1973 (2 of 1974) shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to two thousand rupees.

Explanation.—"Arms" means articles of any description designed or adapted as weapons for offence or defence and includes fire arms, sharp edged weapons, lathis, dandas and sticks.]

¹⁹²[153-B. **Imputations, assertions prejudicial to national integration.**—(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,—

- (a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or
- (b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or
- (c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

154. Owner or occupier of land on which an unlawful assembly is held.—Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their

power to the principal officer at the nearest police station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

155. Liability of person for whose benefit riot is committed.—Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

156. Liability of agent of owner or occupier for whose benefit riot is committed.—Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

157. Harboursing persons hired for an unlawful assembly.—Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons, knowing that such persons have been hired, engaged, employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

158. Being hired to take part in an unlawful assembly or riot.—Whoever is engaged, or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in Section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both,

or to go armed.—and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either

description for a term which may extend to two years, or with fine, or with both.

159. Affray.—When two or more persons, by fighting in a public place, disturb the public peace, they are said to “commit an affray”.

► **Affray.**—The offence of affray as defined in Section 159, IPC postulates the commission of a definite assault and a breach of the peace. Mere quarrelling or abusing in a street without exchange of blows is not sufficient to attract the application of this section, *Korga Shetty v. State of Mysore*, 1971 SCC OnLine Kar 63 : 1971 Cri LJ 1041.

160. Punishment for committing affray.—Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Chapter IX

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

161. Public servant taking gratification other than legal remuneration in respect of an official act.—¹⁹³[* * *]

162. Taking gratification, in order, by corrupt or illegal means, to influence public servant.—¹⁹⁴[Omitted]

163. Taking gratification, for exercise of personal influence with public servant.—¹⁹⁵[Omitted]

164. Punishment for abetment by public servant of offences defined in Section 162 or Section 163.—¹⁹⁶[Omitted]

165. Public servant obtaining valuable thing, without consideration, from person concerned in proceeding or business transacted by such public servant.—¹⁹⁷[* * *]

165-A. Punishment for abetment of offences defined in Section 161 or Section 165.—¹⁹⁸[* * *]

NOTE ► The Statement of Objects and Reasons of the Prevention of Corruption Act, 1988 provides:

1. The Bill is intended to make the existing anti-corruption laws more effective by widening their coverage and by strengthening the provisions.

2. The Prevention of Corruption Act, 1947, was amended in 1964 based on the recommendations of the Santhanam Committee. There are provisions in Chapter IX of the Penal Code to deal with public servants and those who abet them by way of the criminal misconduct, there are also provisions in the Criminal Law Amendment Ordinance, 1944, to enable attachment of ill-gotten wealth. The Bill seeks to incorporate all these provisions with modifications so as to make the provisions more effective in combating corruption among public

servants.

3. The Bill, inter alia, envisages widening the scope of the definition of the expression "public servant", incorporation of offences under Sections 161 to 165-A of the Penal Code enhancement of penalties provided for these offences and incorporation of a provision that the order of the trial court upholding the grant of sanction for prosecution would be final if it has not already been challenged and the trial has commenced. In order to expedite the proceedings, provisions for day-to-day trial of cases and prohibitory provisions with regard to grant of stay and exercise of powers of revision on interlocutory orders have also been included.

4. Since the provisions of Sections 161 to 165-A are incorporated in the proposed legislation with an enhanced punishment, it is not necessary to retain those sections in the Penal Code. Consequently, it is proposed to delete those sections with the necessary saving provision.

5. The notes on clauses explain in detail the provisions of the Bill.

► **Corroboration of Evidence.**—When making the person who offers bribe guilty of abetment of bribery, the complainant cannot be placed on any better footing than that of an accomplice and corroboration in material particulars connecting the accused with the crime has to be insisted upon, *Mohan v. State of Maharashtra*, (2024) 1 HCC (Bom) 1.

166. Public servant disobeying law, with intent to cause injury to any person.—Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in the section.

¹⁹⁹[**166-A. Public servant disobeying direction under law.**—Whoever, being a public servant,—

- (a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or
- (b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or

(c) fails to record any information given to him under sub-section (1) of Section 154 of the Code of Criminal Procedure, 1973 (2 of 1974), in relation to cognizable offence punishable under Section 326-A, Section 326-B, Section 354, Section 354-B, Section 370, Section 370-A, Section 376, Section 376-A, [200](#) [Section 376-AB, Section 376-B, Section 376-C, Section 376-D, Section 376-DA, Section 376-DB], Section 376-E or Section 509,

shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

STATE AMENDMENTS

Arunachal Pradesh.—In its application to the State of Arunachal Pradesh, in Section 166-A, in clause (c), for the words, figures and letters “Section 326-A, Section 326-B, Section 354, Section 354-B, Section 370, Section 370-A, Section 376, Section 376-A, Section 376-B, Section 376-C, Section 376-D, Section 376-E or Section 509” the words, figures and letters “Section 326-A, Section 326-B, Section 354, sub-sections (2) and (3) of Section 354-A, Section 354-B, Section 354-C, sub-section (2) of Section 354-D, Section 370, Section 370-A, Section 376, Section 376-A, Section 376-AA, Section 376-B, Section 376-C, Section 376-D, Section 376-DA, Section 376-E or Section 509” shall be *substituted*. [Vide Arunachal Pradesh Act 3 of 2019, S. 3, dt. 2-4-2019].

166-B. Punishment for non-treatment of victim.—Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the provisions of Section 357-C of the Code of Criminal Procedure, 1973 (2 of 1974), shall be punished with imprisonment for a term which may extend to one year or with fine or with both.]

167. Public servant framing an incorrect document with intent to cause injury.—Whoever, being a public servant, and being, as [201](#) [such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record] in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

168. Public servant unlawfully engaging in trade.—Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or

with both.

► **Trade.**—The word “trade” does not include receiving apprenticeship training, *State of Gujarat v. Mahesh Kumar*, (1980) 2 SCC 322 : 1980 SCC (Cri) 442.

169. Public servant unlawfully buying or bidding for property.—Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

170. Personating a public servant.—Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

171. Wearing garb or carrying token used by public servant with fraudulent intent.—Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

202[Chapter IX-A

OF OFFENCES RELATING TO ELECTIONS

171-A. “Candidate”, “Electoral right” defined.—For the purposes of the Chapter—

203[(a) “candidate” means a person who has been nominated as a candidate at any election;]

(b) “electoral right” means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

171-B. Bribery.—(1) Whoever—

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise

any such right,
commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

171-C. Undue influence at elections.—(1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

- (a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or
- (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

171-D. Personation at elections.—Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election:

[204](#)[Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy for an elector under any law for the time being in force insofar as he votes as a proxy for such elector.]

171-E. Punishment for bribery.—Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

Explanation.—"Treating" means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

171-F. Punishment for undue influence or personation at an election.—Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

171-G. False statement in connection with an election.—Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

171-H. Illegal payments in connection with an election.—Whoever without the general or special authority in writing of a candidate incurs or authorizes expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

171-I. Failure to keep election accounts.—Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.]

Chapter X

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

172. Absconding to avoid service of summons or other proceeding.—Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, 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;

or, if the summons or notice or order is to attend in person or by agent, or to ²⁰⁵[produce a document or an electronic record] in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

173. Preventing service of summons or other proceeding, or preventing publication thereof.—Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order,

or intentionally prevents the lawful affixing to any place of any such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

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;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document [206](#)[or electronic record] in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

174. Non-attendance in obedience to an order from public servant.—Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

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;

or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations

(a) A, being legally bound to appear before the [207](#)[High Court] at Calcutta in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.

(b) A, being legally bound to appear before a [208](#)[District Judge], as

a witness, in obedience to a summons issued by that [209](#)[District Judge] intentionally omits to appear. A has committed the offence defined in this section.

[210](#)[174-A. Non-appearance in response to a proclamation under Section 82 of Act 2 of 1974.—Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (1) of Section 82 of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub-section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.]

175. Omission to produce document [211](#)[or electronic record] to public servant by person legally bound to produce it.—Whoever, being legally bound to produce or deliver up any document [212](#)[or electronic record] to any public servant, as such, intentionally omits so to produce or deliver up the same, 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;

or, if the document [213](#)[or electronic record] is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration

A, being legally bound to produce a document before a [214](#)[District Court], intentionally omits to produce the same. A has committed the offence defined in this section.

176. Omission to give notice or information to public servant by person legally bound to give it.—Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, 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;

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

[215](#)[or, if the notice or information required to be given is required by

an order passed under sub-section (1) of Section 565 of the Code of Criminal Procedure, 1898 (5 of 1898)²¹⁶, 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.]

177. Furnishing false information.—Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations

(a) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound under Clause 5, Section VII, ²¹⁷Regulation III, 1821, of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest police station, wilfully misinforms the police-officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the latter part of this section.

²¹⁸[*Explanation.*—In Section 176 and in this section the word “offence” includes any act committed at any place out of ²¹⁹[India], which, if committed in ²²⁰[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word “offender” includes any person who is alleged to have been guilty of any such act.]

178. Refusing oath or affirmation when duly required by public servant to make it.—Whoever refuses to bind himself by an oath ²²¹[or affirmation] to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which

may extend to six months, or with fine which may extend to one thousand rupees, or with both.

179. Refusing to answer public servant authorised to question.—Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

180. Refusing to sign statement.—Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

181. False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation.—Whoever, being legally bound by an oath ²²²[or affirmation] to state the truth on any subject to any public servant or other person authorised by law to administer such oath ²²³[or affirmation], makes, to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

²²⁴[**182. False information, with intent to cause public servant to use his lawful power to the injury of another person.**—Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

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.

Illustrations

(a) A informs a Magistrate that Z, a police officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that

the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.]

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.

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.

185. Illegal purchase or bid for property offered for sale by authority of public servant.—Whoever, at any sale of property 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.

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 AMENDMENTS

Andhra Pradesh.—Offence under Section 186 is cognizable. [*Vide* A.P.G.O. Ms. No. 732, dt. 5-12-1991].

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.

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 persons 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.

► **Scope.**—It does not only cover breach of law and order, disobedience of which is punishable. It is attracted even in cases where act complained of causes

or tends to cause danger to human life, health or safety as well, *State of Maharashtra v. Sayyed Hassan Sayyed Subhan*, (2019) 18 SCC 145.

189. Threat of injury to public servant.—Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

STATE AMENDMENTS

Andhra Pradesh.—Offence under Section 189 is cognizable. [*Vide* A.P.G.O. Ms. No. 732, dt. 5-12-1991].

190. Threat of injury to induce person to refrain from applying for protection to public servant.—Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

STATE AMENDMENTS

Andhra Pradesh.—Offence under Section 190 is cognizable. [*Vide* A.P.G.O. Ms. No. 732, dt. 5-12-1991].

Chapter XI

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

191. Giving false evidence.—Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation 1.—A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations

(a) *A*, in support of a just claim which *B* has against *Z* for one thousand rupees, falsely swears on a trial that he heard *Z* admit the justice of *B*'s claim. *A* has given false evidence.

(b) *A*, being bound by an oath to state the truth, states that he

believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.

(e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document, which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

192. Fabricating false evidence.—Whoever causes any circumstance to exist or makes any false entry in any book or record, [225](#)[or electronic record] or makes any document [226](#)[or electronic record] containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence".

Illustrations

(a) A, puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

► **False affidavit.**—Filing of false affidavit is covered by Sections 191 and 192 and not by Section 199, *Baban Singh v. Jagdish Singh*, 1966 SCC OnLine SC 5.

193. Punishment for false evidence.—Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court-martial [227](#)[* * *] is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

► **Perjury.**—Cognizance of offence punishable under Section 193 IPC on basis of private complaint, not permissible, *Narendra Kumar Srivastava v. State of Bihar*, (2019) 3 SCC 318.

194. Giving or fabricating false evidence with intent to procure conviction of capital offence.—Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital [228](#)[by the law for the time being in force in [229](#)[India]] shall be punished with [230](#)[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

if innocent person be thereby convicted and executed.—and if an innocent person be convicted and executed in consequence of such

false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

195. Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment.—Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which [231](#)[by the law for the time being in force in [232](#)[India]] is not capital, but punishable with [233](#)[imprisonment for life], or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is [234](#)[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to [235](#)[imprisonment for life] or imprisonment, with or without fine.

[236](#)[**195-A. Threatening any person to give false evidence.**—Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both;

and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.]

196. Using evidence known to be false.—Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

197. Issuing or signing false certificate.—Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

198. Using as true a certificate known to be false.—Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

199. False statement made in declaration which is by law receivable

as evidence.—Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorised by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

► **False statement.**—It must be proved that a false statement touches any point material to the object for which declaration is made, *Jotish Chandra v. State of Bihar*, 1968 SCC OnLine SC 6.

200. Using as true such declaration knowing it to be false.—Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of Sections 199 and 200.

► **Ingredients.**—One of the ingredients of Section 200 is that the declaration should be used corruptly, *Jotish Chandra v. State of Bihar*, 1968 SCC OnLine SC 6.

201. Causing disappearance of evidence of offence, or giving false information to screen offender.—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

if a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life.—and if the offence is punishable with [237](#) [imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with less than ten years' imprisonment.—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

202. Intentional omission to give information of offence by person bound to inform.—Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

203. Giving false information respecting an offence committed.—Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

²³⁸[*Explanation.*—In Sections 201 and 202 and in this section the word “offence”, includes any act committed at any place out of ²³⁹[India], which, if committed in ²⁴⁰[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.]

204. Destruction of ²⁴¹[document or electronic record] to prevent its production as evidence.—Whoever secretes or destroys any ²⁴²[document or electronic record] which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such ²⁴³[document or electronic record] with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

205. False personation for purpose of act or proceeding in suit or prosecution.—Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

206. Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.—Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any

interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

207. Fraudulent claim to property to prevent its seizure as forfeited or in execution.—Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

208. Fraudulently suffering decree for sum not due.—Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

209. Dishonestly making false claim in Court.—Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

210. Fraudulently obtaining decree for sum not due.—Whoever

fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

211. False charge of offence made with intent to injure.—Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, ²⁴⁴[imprisonment for life], or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

STATE AMENDMENTS

Chhattisgarh.—After Section 345-D, the following shall be *inserted*, namely—

“Provided that, if such criminal proceeding be instituted on a false charge, of an offence punishable under Section 354, Section 354-A, Section 354-B, Section 354-C, Section 354-D, Section 354-E, Section 376-B, Section 376-C, Section 376-F, Section 509, Section 509-A or Section 509-B shall be punishable with imprisonment of either description which shall not be less than three years but which may extend to five years and shall also be liable to fine.”. [*Vide* Chhattisgarh Act 25 of 2015, S. 2, dt. 21-7-2015.]

212. Harboursing offender.—Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

if a capital offence.—shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.—and if the offence is punishable with ²⁴⁵[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

[246](#)["Offence" in this section includes any act committed at any place out of [247](#)[India], which, if committed in [248](#)[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in [249](#)[India].]

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to [250](#) [imprisonment for life], A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

213. Taking gift, etc., to screen an offender from punishment.—Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

if a capital offence.—shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.—and if the offence is punishable with [251](#) [imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

214. Offering gift or restoration of property in consideration of screening offender.—Whoever gives or causes, or offers or agrees to

give or cause, any gratification to any person, or [252](#) [restores or causes the restoration of] any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

if a capital offence.—shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.—and if the offence is punishable with [253](#) [imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

[254](#) [Exception.—The provisions of Sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.]

Illustrations

[255](#) [* * *]

215. Taking gift to help to recover stolen property, etc.—Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

216. Harbours offender who has escaped from custody or whose apprehension has been ordered.—Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody,

or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say,—

if a capital offence.—if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.—if the offence is punishable with [256](#)[imprisonment for life] or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine;

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

[257](#)["Offence" in this section includes also any act or omission of which a person is alleged to have been guilty out of [258](#)[India], which, if he had been guilty of it in [259](#)[India], would have been punishable as an offence, and for which he is, under any law relating to extradition, [260](#)[* * *], or otherwise, liable to be apprehended or detained in custody in [261](#)[India]; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in [262](#)[India].]

Exception.—The provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

[263](#)[216-A. Penalty for harbouring robbers or dacoits.—Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without [264](#)[India].

Exception.—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.]

[216-B. Definition of "harbour" in Sections 212, 216 and 216-A.—](#)[265](#)
[* * *]

[217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.](#)—Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending

thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.—Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.—Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.—Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or confinement, or keeps any person in confinement, in the exercise of that authority knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

221. Intentional omission to apprehend on the part of public servant bound to apprehend.—Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

with imprisonment of either description for a term which may extend to seven years. with or without fine. if the person in confinement. or

who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with [266](#)[imprisonment for life] or imprisonment for a term which may extend to ten years; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.

222. Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.—Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence [267](#)[or lawfully committed to custody], intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

with [268](#)[imprisonment for life] or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to [269](#)[imprisonment for life] [270](#)[* * *] [271](#)[* * *] [272](#)[* * *] [273](#)[* * *] or imprisonment for a term of ten years or upwards; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years [274](#)[or if the person was lawfully committed to custody].

223. Escape from confinement or custody negligently suffered by public servant.—Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence [275](#)[or lawfully committed to custody], negligently suffers such person to escape from confinement, shall be

punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

224. Resistance or obstruction by a person to his lawful apprehension.—Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

225. Resistance or obstruction to lawful apprehension of another person.—Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with [276](#)[imprisonment for life] or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either 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 liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to [277](#)[imprisonment for life] [278](#)[* * *] [279](#)[* * *] [280](#)[* * *] or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either 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 [281](#)[imprisonment for life] or imprisonment of either description for a term

not exceeding ten years, and shall also be liable to fine.

²⁸²[225-A. 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.

²⁸³225-B. 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 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.]

226. Unlawful return from transportation.—²⁸⁴[* * *]

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.

228. Intentional insult or interruption to public servant sitting in judicial proceeding.—Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

STATE AMENDMENTS

Andhra Pradesh.—Offence under Section 228 is cognizable. [*Vide* A.P.G.O. Ms. No. 732, dt. 5-12-1991].

► **Essential Ingredients.**—The essential ingredients of the offence under Section 228, IPC are (i) intention, (ii) insult or interruption to a public servant, and

(iii) the public servant insulted or interrupted must be sitting in any stage of a judicial proceeding. The question whether an insult offered to a public servant is intentional or not has to depend upon the facts of each particular case and it is neither necessary nor advisable to lay down any hard and fast rule, *State of Madhya Pradesh v. Revashankar*, 1958 SCC OnLine SC 3; *K.C. Nanda v. Certificate Officer*, 1970 SCC OnLine Ori 87 : 1971 Cri LJ 742.

► **Intentional insult or interruption to public servant sitting in judicial proceeding.**—Adjudication proceedings under S. 7-A, Employees' Provident Funds and Miscellaneous Provisions Act, 1952 are deemed judicial proceeding, within meaning of Ss. 193 and 228 IPC, hence, complaint under S. 228 IPC, maintainable, on obstruction and interference with such proceeding by accused. S. 195(1)(b)(i) CrPC, invocable, *Amit Vashistha v. Suresh*, (2018) 15 SCC 240 : (2018) 2 SCC (L&S) 775.

²⁸⁵[228-A. Disclosure of identity of the victim of certain offences, etc.—(1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an ²⁸⁶[offence under Section 376, ²⁸⁷[Saction 376-A, Section 376-AB, Section 376-B, Section 376-C, Section 376-D, Section 376-DA, Section 376-DB] or Section 376-E] is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

(2) Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the identity of the victim if such printing or publication is—

- (a) by or under the order in writing of the officer-in-charge of the police station or the police-officer making the investigation into such offence acting in good faith for the purposes of such investigation; or
- (b) by, or with the authorisation in writing of, the victim; or
- (c) where the victim is dead or minor or of unsound mind, by, or with the authorisation in writing of, the next of kin of the victim:

Provided that no such authorisation shall be given by the next of kin to anybody other than the chairman or the secretary, by whatever name called, of any recognised welfare institution or organisation.

Explanation.—For the purposes of this sub-section, “recognised welfare institution or organisation” means a social welfare institution or organisation recognised in this behalf by the Central or State Government.

(3) Whoever prints or publishes any matter in relation to any proceeding before a court with respect to an offence referred to in sub-

section (1) without the previous permission of such court shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Explanation.—The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.]

STATE AMENDMENTS

Arunachal Pradesh.—In its application to the State of Arunachal Pradesh, in Section 228-A, in sub-section (1), for the words, figures and letters “offence under Section 376, Section 376-A, Section 376-B, Section 376-C or Section 376-D or Section 376-E”, the words, figures and letters “offence under Section 376, Section 376-A, Section 376-AA, Section 376-B, Section 376-C, Section 376-D, Section 376-DA or Section 376-E” shall be *substituted*. [*Vide* Arunachal Pradesh Act 3 of 2019, S. 4, dt. 2-4-2019].

► **Use of name of victim in rape case.**—Use of name of victim all through in judgments of both trial court and High Court is not consistent with Section 228-A, though Explanation makes exception in favour of superior court judgments, *Lalit Yadav v. State of Chhattisgarh*, (2018) 7 SCC 499.

► **Prohibition on disclosure of name and identity of victims of sexual offences.**—S. 228-A prohibits not only the publication of the name of the victim but also the disclosure of any other matter which may make known the identity of the victim. No person can print or publish in print, electronic, social media, etc. the name of the victim or even in a remote manner disclose any fact which can lead to the victim being identified and which should make her identity known to the public at large, *Nipun Saxena v. Union of India*, (2019) 2 SCC 703.

► **Disclosure of identities.**—The mandate of not disclosing identities of the victims of sexual offences, held, should be followed by all courts including Supreme Court, *Ravishankar v. State of M.P.*, (2019) 9 SCC 689.

229. Personation of a juror or assessor.—Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a jurymen or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

²⁸⁸**[229-A. Failure by person released on bail or bond to appear in Court.**—Whoever, having been charged with an offence and released on bail or on bond without sureties, fails without sufficient cause (the burden of proving which shall lie upon him), to appear in Court in accordance with the terms of the bail or bond, shall be punished with

imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Explanation.—The punishment under this section is—

- (a) in addition to the punishment to which the offender would be liable on a conviction for the offence with which he has been charged; and
- (b) without prejudice to the power of the Court to order forfeiture of the bond.]

Chapter XII

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

230. "Coin" defined.—²⁸⁹[Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.]

²⁹⁰[Indian coin.—Indian coin is metal stamped and issued by the authority of the Government of India in order to be used as money; and metal which has been so stamped and issued shall continue to be Indian coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.]

Illustrations

- (a) Cowries are not coin.
- (b) Lumps of unstamped copper, though used as money, are not coin.
- (c) Medals are not coin, inasmuch as they are not intended to be used as money.
- (d) The coin denominated as the Company's rupee is ²⁹¹[Indian coin].

²⁹²[(e) The "Farukhabad" rupee, which was formerly used as money under the authority of the Government of India, is ²⁹³[Indian coin] although it is no longer so used.]

231. Counterfeiting coin.—Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

232. Counterfeiting Indian coin.—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting ²⁹⁴[Indian coin], shall be punished with ²⁹⁵[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

233. Making or selling instrument for counterfeiting coin.—Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

234. Making or selling instrument for counterfeiting Indian coin.—Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting [296](#) [Indian coin], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

235. Possession of instrument, or material for the purpose of using the same for counterfeiting coin.—Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if Indian coin.—and if the coin to be counterfeited is [297](#) [Indian coin], shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

236. Abetting in India the counterfeiting out of India of coin.—Whoever, being within [298](#) [India], abets the counterfeiting of coin out of [299](#) [India], shall be punished in the same manner as if he abetted the counterfeiting of such coin within [300](#) [India].

237. Import or export of counterfeit coin.—Whoever imports into [301](#) [India], or exports therefrom, any counterfeit coin, knowingly or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

238. Import or export of counterfeits of the Indian coin.—Whoever imports into [302](#) [India], or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit of [303](#) [Indian coin], shall be punished with [304](#) [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

239. Delivery of coin, possessed with knowledge that it is

counterfeit.—Whoever, having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

240. Delivery of Indian coin, possessed with knowledge that it is counterfeit.—Whoever, having any counterfeit coin, which is a counterfeit of [305](#)[Indian coin], and which, at the time when he became possessed of it, he knew to be a counterfeit of [306](#)[Indian coin], fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

241. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.—Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustration

A, a coiner, delivers counterfeit Company's rupees to his accomplice *B*, for the purpose of uttering them. *B* sells the rupees to *C*, another utterer, who buys them knowing them to be counterfeit. *C* pays away the rupees for goods to *D*, who receives them, not knowing them to be counterfeit. *D*, after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here *D* is punishable only under this section, but *B* and *C* are punishable under Section 239 or 240, as the case may be.

242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.—Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.—Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of [307](#)[Indian coin], having

known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

244. Person employed in mint causing coin to be of different weight or composition from that fixed by law.—Whoever, being employed in any mint lawfully established in [308](#)[India], does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

245. Unlawfully taking coining instrument from mint.—Whoever, without lawful authority, takes out of any mint, lawfully established in [309](#)[India], any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

246. Fraudulently or dishonestly diminishing weight or altering composition of coin.—Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation.—A person who scoops out part of the coin and puts anything else into the cavity alters the composition of the coin.

247. Fraudulently or dishonestly diminishing weight or altering composition of Indian coin.—Whoever fraudulently or dishonestly performs on [310](#)[any Indian coin] any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

248. Altering appearance of coin with intent that it shall pass as coin of different description.—Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

249. Altering appearance of Indian coin with intent that it shall pass as coin of different description.—Whoever performs on [311](#)[any Indian coin] any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description

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

250. Delivery of coin possessed with knowledge that it is altered.—Whoever, having coin in his possession with respect to which the offence defined in Section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

251. Delivery of Indian coin, possessed with knowledge that it is altered.—Whoever, having coin in his possession with respect to which the offence defined in Section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

252. Possession of coin by person who knew it to be altered when he became possessed thereof.—Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

253. Possession of Indian coin by person who knew it to be altered when he became possessed thereof.—Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 247 or 249 has been committed, having known at the time of becoming possessed thereof, that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

254. Delivery of coin as genuine which, when first possessed, the deliverer did not know to be altered.—Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in Sections 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time

when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

255. Counterfeiting Government stamp.—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with ³¹²[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

256. Having possession of instrument or material for counterfeiting Government stamp.—Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

257. Making or selling instrument for counterfeiting Government stamp.—Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

258. Sale of counterfeit Government stamp.—Whoever, sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

259. Having possession of counterfeit Government stamp.—Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

260. Using as genuine a Government stamp known to be counterfeit.

—Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

261. Effacing, writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.—Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance, bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

262. Using Government stamp known to have been before used.—Whoever fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

263. Erasure of mark denoting that stamp has been used.—Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark, put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes of any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

³¹³[**263-A. Prohibition of fictitious stamps.**—(1) Whoever—

- (a) makes, knowingly utters, deals in or sells any fictitious stamps, or knowingly uses for any postal purpose any fictitious stamp, or
- (b) has in his possession, without lawful excuse, any fictitious stamp, or
- (c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

(2) Any such stamp, die, plate, instrument or material in the possession of any person for making any fictitious stamp ³¹⁴[may be seized and, if seized], shall be forfeited.

(3) In this section “fictitious stamp” means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(4) In this section and also in Sections 255 to 263, both inclusive, the word “Government”, when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in Section 17, be deemed to include the person or persons authorised by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country.]

Chapter XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

264. Fraudulent use of false instrument for weighing.—Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

265. Fraudulent use of false weight or measure.—Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

266. Being in possession of false weight or measure.—Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false ³¹⁵[* * *], intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

267. Making or selling false weight or measure.—Whoever makes, sells or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

¹. The Penal Code has been declared in force in—

Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), S. 2; Panth Piploda, by the Panth Piploda Laws Regulation, 1929 (1 of 1929), S. 2 and Sch.; Khondmals District, by the Khondmals Laws Regulation, 1936 (4 of 1936), S. 3 and Sch.; and Angul District, by the Angul Laws Regulation, 1936 (5 of 1936), S. 3 and Sch.

It has been declared under S. 3(a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely : the United Provinces Tarai Districts, see Gazette of India, 1876, Pt. I, p. 505; the Districts of Hazaribagh, Lohardaga (now called the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44) and Manbhum and Pargana. Dhalbhum and the Kolhan in the District of Singhbhum, see Gazette of India, 1881, Pt. I, p. 504.

It has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

It has been extended under S. 5 of the same Act to the Lushai Hills, see Gazette of India, 1898, Pt. II, p. 345.

The Act has been extended to—

- Goa, Daman and Diu by Reg. 12 of 1962, S. 3 and Sch.;
- Dadra and Nagar Haveli by Reg. 6 of 1963, S. 2 and Sch. I;
- Pondicherry by Reg. 7 of 1963, S. 3 and Sch. I
- Laccadive, Minicoy and Amindivi Islands by Reg. 8 of 1965, S. 3 and Sch.

It has been extended to the State of Sikkim w.e.f. 13-9-1994 [*Vide* Noti. No. S.O. 516(E), dt. 9th July, 1994].

². *Subs.* for “the whole of India except Part B States” by Act 3 of 1951.

³. *Subs.* by the A.O. 1948 for “take effect * throughout British India”.

* The words and figures “on and from the first days of May, 1861” occurring between the words “effect” and “throughout” were *rep.* by Act 12 of 1891.

⁴. The words “except the State of Jammu and Kashmir” *omitted* by Act 34 of 2019, Ss. 95 & 96 and Sch. V (w.e.f. 31-10-2019).

⁵. *Subs.* for “the States” by Act 3 of 1951 (w.e.f. 1-4-1951).

⁶. The words and figures “on or after the said first day of May, 1861” *omitted* by Act 12 of 1891.

⁷. *Subs.* for “law passed by the Governor-General of India in Council” by the A.O. 1937.

⁸. *Subs.* for “the States” by Act 3 of 1951 (w.e.f. 1-4-1951).

⁹. *Subs.* for “the States” by Act 3 of 1951 (w.e.f. 1-4-1951).

¹⁰. *Subs.* for “the States” by Act 3 of 1951 (w.e.f. 1-4-1951).

¹¹. *Subs.* by Act 4 of 1898, S. 2. Prior to substitution it read as:

“4. *Punishment of offences committed by a servant of the Queen within a foreign allied States.*—Every servant of the Queen shall be subject to punishment under this Code for every act or omission contrary to the provisions thereof, of which he, whilst in such service, shall be guilty on or after the said 1st day of January, 1862, within the dominions

of any Prince or State in alliance with the Queen, by virtue of any treaty or engagement heretofore entered into with the East India Company or which may have been or may hereafter be made in the name of the Queen by any Government of India."

¹². *Subs.* by the A.O. 1950 for the original clauses (1) to (4).

¹³. *Ins.* by Act 10 of 2009, S. 51 (w.e.f. 27-10-2009).

¹⁴. *Subs.* by Act 10 of 2009, S. 51 (w.e.f. 27-10-2009). Prior to substitution it read as:
'*Explanation.*—In this section the word "offence" includes every act committed outside India which, if committed in India, would be punishable under this Code.'

¹⁵. *Subs.* for "Illustrations" by Act 36 of 1957, S. 3 and Sch. II.

¹⁶. The brackets and letters "(a)" *omitted* by Act 36 of 1957, S. 3 and Sch. II.

¹⁷. *Subs.* for "a coolie, who is a Native Indian subject" by the A.O. 1948.

¹⁸. *Subs.* for "a British subject of Indian domicile" by the A.O. 1950.

¹⁹. *Subs.* for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).

²⁰. *Illustrations* (b), (c) and (d) were *omitted* by the A.O. 1950. Prior to omission they read as:

"(b) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(c) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found.

(d) D, a British subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder."

²¹. *Subs.* by the A.O. 1950.

²². *Omitted* by the Adaptation of Laws Order, 1950. Prior to omission it read as:
'13. "*Queen*".—The words "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.'

²³. *Subs.* by the A.O. 1950. Prior to substitution it read as:
'14. "*Servant of the Queen*".—The words "servant of the Queen" denote all officers or servants continued, appointed, or employed in India by or under the authority of the said Statute 21 and 22 Viet. c. 106, entitled "An Act for the better Government of India," or by or under the authority of the Government of India or any Government.'

²⁴. *Omitted* by the Government of India (Adaptation of Indian Laws) Order, 1937. Prior to omission it read as:

'15. "*British India*".—The words "British India" denote the Territories which are or may become vested in Her Majesty by the said Statute 21 and 21 Vict., c. 106 entitled "An

Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore and Malacca.'.

25. *Omitted* by the Government of India (Adaptation of Indian Laws) Order, 1937. Prior to omission it read as:

'16. "*Government of India*".—The words "Government of India" denote the Governor General of India in Council; or, during the absence of the Governor General of India from his Council, the President in Council, or the Governor General of India alone, as regards the powers which may be lawfully exercised by them or him respectively.'.

26. *Subs.* by A.O. 1950. Prior to substitution it read as:

"17. *Government*.—The word 'Government' denotes the person or persons authorised by law to administer Executive Government in any part of British India."

27. The words "Part A" were *omitted* by Act 3 of 1951 (w.e.f. 1-4-1951).

28. *Subs.* by Act 3 of 1951 (w.e.f. 1-4-1951).

29. *Omitted* by the Madras Civil Courts Act, 1873 (3 of 1873).

30. *Omitted* by the Adaptation of Laws Order, 1950. Prior to omission it read as:

"*First*.—Every covenanted servant of the Queen;"

31. *Subs.* for "or Naval" by Act 10 of 1927, S. 2 and Sch. I.

32. *Subs.* by the A.O. 1948. Prior to substitution it read as:

"of the Queen while serving under any Government in British India or the Crown Representative"

33. The words "of the Dominion" were *omitted* by the A.O. 1950.

34. *Subs.* by Act 40 of 1964, S. 2 (w.e.f. 18-12-1964).

35. *Subs.* for "the Crown" by the A.O. 1950.

36. *Subs.* for "the Crown" by the A.O. 1950.

37. *Subs.* for "the Crown" by the A.O. 1950.

38. *Subs.* for "the Crown" by the A.O. 1950.

39. *Subs.* for "the Crown" by the A.O. 1950.

40. *Subs.* for "the Crown" by the A.O. 1950.

41. *Omitted* by Act 40 of 1964, S. 2 (w.e.f. 18-12-1964). Prior to omission it read as:

"and every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty"

- ⁴². *Ins.* by Act 39 of 1920, S. 2.
- ⁴³. *Subs.* by Act 40 of 1964, S. 2 (w.e.f. 18-12-1964).
- ⁴⁴. *Ins.* by Act 39 of 1920, S. 2.
- ⁴⁵. *Subs.* by Act 1 of 1889, S. 9. Prior to substitution it read as:
 "Explanation.—It is not essential to counterfeiting that the imitation should be exact."
- ⁴⁶. *Ins.* by Act 21 of 2000, S. 91 and Sch. I (w.e.f. 17-10-2000).
- ⁴⁷. *Subs.* by Act 27 of 1870, S. 1. Prior to substitution it read as:
 "34. Each of several persons liable for an act done by all, in like manner as if done by him alone.—When a criminal act is done by several persons, each of such persons is liable for that act in the same manner as if the act were done by him alone."
- ⁴⁸. *Subs.* by Act 27 of 1870, S. 2. Prior to substitution it read as:
 '40. Offence.—The word "offence" denotes a thing made punishable by this Code.'
- ⁴⁹. *Subs.* for "chapter" by Act 8 of 1930, S. 2 and Sch. I.
- ⁵⁰. *Ins.* by Act 8 of 1913, S. 2.
- ⁵¹. *Ins.* by Act 8 of 1882, S. 1.
- ⁵². *Ins.* by Act 10 of 1886, S. 21(1).
- ⁵³. *Ins.* by Act 10 of 2009, S. 51 (w.e.f. 27-10-2009).
- ⁵⁴. *Subs.* for "British India" by the A.O. 1948.
- ⁵⁵. The words "the territories comprised in" *omitted* by Act 48 of 1952, S. 3 and Sch. II.
- ⁵⁶. *Subs.* for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- ⁵⁷. *Ins.* by Act 8 of 1942, S. 2.
- ⁵⁸. *Subs.* for "*Secondly*.—Transportation" by Act 26 of 1955, S. 117 and Sch.
- ⁵⁹. *Omitted* by Act 17 of 1949, S. 2 (w.e.f. 6-4-1949). Prior to omission it read as:
 "Thirdly.—Penal servitude"
- ⁶⁰. *Ins.* by Act 26 of 1955, S. 117 and Sch.
- ⁶¹. *Subs.* by the A.O. 1950. Prior to substitution it read as:
 "the Central Government or the Provincial Government of the Province within which the offender shall have been sentenced".
- ⁶². *Subs.* for "transportation" by Act 26 of 1955, S. 117 and Sch (w.e.f. 1-1-1956).

- ^{63.} *Subs.* by the A.O. 1950. Prior to substitution it read as:
"the Provincial Government of the Province within which the offender shall have been sentenced".
- ^{64.} *Subs.* by A.O. 1950. Earlier *inserted* by the A.O. 1937.
- ^{65.} *Omitted* by 17 of 1949 (w.e.f. 6-4-1949). Prior to omission it read as:
"56. *Sentence of Europeans and Americans to penal servitude instead of transportation.*—Whenever any person being a European or American is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude instead of transportation, according to the provisions of Act XXIV of 1855."
- ^{66.} *Subs.* for "transportation" by Act 26 of 1955, S. 117 and Sch (w.e.f. 1-1-1956).
- ^{67.} *Subs.* for "transportation" by Act 26 of 1955, S. 117 and Sch (w.e.f. 1-1-1956).
- ^{68.} *Omitted* by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956). Prior to omission it read as:
"58. *Offenders sentenced to transportation how dealt with until transported.*—In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment."
- ^{69.} *Omitted* by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956). Prior to omission it read as:
"59. *In what cases transportation may be awarded instead of imprisonment.*—In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment."
- ^{70.} *Omitted* by the Penal Code (Amendment) Act, 1921 (16 of 1921), S. 4. Prior to omission it read as:
"61. *Sentence of forfeiture of property.*—In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property except for the benefit of Government until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned."
- ^{71.} *Omitted* by the Penal Code (Amendment) Act, 1921 (16 of 1921), Section 4. Prior to omission it read as:
"62. *Forfeiture of property in respect of offenders punishable with death, transportation or imprisonment.*—Whenever any person is convicted of an offence

punishable with death, the Court may adjudge that all his property, moveable and immoveable, shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate during the period of his transportation or imprisonment, shall be forfeited to Government, subject to such provision for his family and dependents as the Government may think fit to allow during such period."

⁷². *Subs.* for "in every case in which an offender is sentenced to a fine" by Act 8 of 1882, S. 2.

⁷³. *Ins.* by Act 10 of 1886, S. 21(2).

⁷⁴. *Ins.* by Act 8 of 1882, S. 3.

⁷⁵. *Ins.* by Act 8 of 1882, S. 4.

⁷⁶. *Subs.* for "be less than a" by Act 8 of 1882, S. 5.

⁷⁷. *Subs.* by Act 3 of 1910. Prior to substitution it read as:

"75. *Punishment of persons convicted, after a previous conviction, of an offence punishable with three years imprisonment.*—Whoever having been convicted of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life, or to double the amount of punishment to which he would otherwise have been liable for the same; provided that he shall not in any case be liable to imprisonment for a term exceeding ten years."

⁷⁸. *Subs.* for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).

⁷⁹. The word "or" *omitted* by Act 3 of 1951 (w.e.f. 1-4-1951).

⁸⁰. *Omitted* by Act 3 of 1951 (w.e.f. 1-4-1951).

⁸¹. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).

⁸². *Ins.* by Act 13 of 2013, S. 2 (w.r.e.f. 3-2-2013).

⁸³. *Ins.* by Act 4 of 1898, S. 3.

⁸⁴. *Subs.* for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).

⁸⁵. *Subs.* for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).

⁸⁶. *Subs.* for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).

- ⁸⁷. *Subs.* for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- ⁸⁸. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- ⁸⁹. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- ⁹⁰. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- ⁹¹. *Subs.* by Act 10 of 2009, S. 51(c) (w.e.f. 27-10-2009). Prior to substitution it read as:
"voluntarily conceals, by any act or illegal omission, the existence of a design".
- ⁹². *Subs.* by Act 10 of 2009, S. 51(d) (w.e.f. 27-10-2009). Prior to substitution it read as:
"voluntarily conceals, by any act or illegal omission, the existence of a design".
- ⁹³. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- ⁹⁴. *Ins.* by Act 8 of 1913, S. 3.
- ⁹⁵. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- ⁹⁶. *Subs.* for "Queen" by the A.O. 1950.
- ⁹⁷. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch. (w.e.f. 1-1-1956).
- ⁹⁸. *Subs.* for "and shall forfeit all his property" by Act 16 of 1921, S. 2.
- ⁹⁹. *Subs.* for "Illustrations" by Act 36 of 1957, S. 3 and Sch. II (w.e.f. 17-9-1957).
- ¹⁰⁰. *Subs.* for "Queen" by the A.O. 1950.
- ¹⁰¹. *Omitted* by the A.O. 1950. Prior to omission it read as:
"(b) A in India abets in insurrection against the Queen's Government of Ceylon by sending arms to the insurgents. A is guilty of abetting the waging of war against the Queen."
- ¹⁰². S. 121-A was *ins.* by Act 27 of 1870, S. 4.
- ¹⁰³. *Subs.* for "the States" by Act 3 of 1951, S. 3 and Sch. (w.e.f. 1-4-1951).
- ¹⁰⁴. The words "or to deprive the Queen of the sovereignty of the Provinces or to any part thereof" *omitted* by the A.O. 1950.
- ¹⁰⁵. *Subs.* for "the Government of India/Local Government" by the A.O. 1937.
- ¹⁰⁶. *Subs.* for "Provincial" by the A.O. 1950.
- ¹⁰⁷. The words "or the Govt. of Burma" *omitted* by the A.O. 1948.
- ¹⁰⁸. *Subs.* for "transportation for life or any shorter term" by Act 26 of 1955, S. 117 and Sch.

(w.e.f. 1-1-1956)

^{109.} *Ins.* by Act 16 of 1921, S. 3.

^{110.} *Subs.* for "Queen" by the A.O. 1950.

^{111.} *Subs.* for "transportation of life" by Act 26 of 1955, S. 117 and Sch.

^{112.} *Subs.* for "and shall forfeit all his property" by Act 16 of 1921, S. 2.

^{113.} *Subs.* for "Queen" by the A.O. 1950.

^{114.} *Subs.* for "Governor General" by the A.O. 1950.

^{115.} *Subs.* for "Governor" by Act 3 of 1951, S. 3 and Sch.

^{116.} The words "or Rajpramukh" *omitted* by the A.O. (No. 2) 1956.

^{117.} *Subs.* for "Province" by the A.O. 1950. Earlier the word "Province" was *subs.* by the A.O. 1937, for the word "Presidency".

^{118.} The words "or a Lieutenant-Governor" *omitted* by the A.O. 1937.

^{119.} The words "or a Member of the Council of the Governor General of India" *omitted* by the A.O. 1948.

^{120.} The words "or of the Council of any Presidency" *omitted* by the A.O. 1937.

^{121.} The original words "Governor General, Governor, Lieutenant-Governor or Member of Council" have successively been amended by the A.O. 1937, A.O. 1948 and A.O. 1950 to read as above.

^{122.} *Subs.* for "Governor" by Act 3 of 1951.

^{123.} The words "or Rajpramukh" *omitted* by the A.O. 1956.

^{124.} The original words "Governor General, Governor, Lieutenant-Governor or Member of Council" have successively been amended by the A.O. 1937, A.O. 1948 and A.O. 1950 to read as above.

^{125.} *Subs.* for "Governor" by Act 3 of 1951.

^{126.} The words "or Rajpramukh" *omitted* by the A.O. 1956.

^{127.} *Subs.* by Act 4 of 1898, S. 4. Earlier, *inserted* by Act 27 of 1870, S. 5.

^{128.} The words "Her Majesty or" *omitted* by the A.O. 1950. The words "or the Crown Representative" *ins.* after the word "Majesty" by the A.O. 1937 and *omitted* by the A.O. 1948.

- ¹²⁹. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- ¹³⁰. The words "or British Burma" *omitted* by the A.O. 1948. Earlier, *inserted* by the A.O. 1937.
- ¹³¹. Subs. for "transportation for life or any shorter term" by Act 26 of 1955, S. 117 and Sch.
- ¹³². Subs. for "Queen" by the A.O. 1950.
- ¹³³. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- ¹³⁴. Subs. for "Queen" by the A.O. 1950.
- ¹³⁵. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- ¹³⁶. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- ¹³⁷. Subs. for "the States" by Act 3 of 1951.
- ¹³⁸. Subs. for "and Navy" by Act 10 of 1927, S. 2 and Sch. I.
- ¹³⁹. Subs. for "or sailor" by Act 10 of 1927, S. 2 and Sch. I.
- ¹⁴⁰. Subs. for "or Navy" by Act 10 of 1927, S. 2 and Sch. I.
- ¹⁴¹. Subs. for "Queen" by the A.O. 1950.
- ¹⁴². Subs. for "or sailor" by Act 10 of 1927, S. 2 and Sch. I.
- ¹⁴³. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- ¹⁴⁴. *Ins.* by Act 27 of 1870, S. 6.
- ¹⁴⁵. Subs. for "and 'soldier' " by Act 10 of 1927, S. 2 and Sch. I.
- ¹⁴⁶. *Ins.* by Act 35 of 1934, S. 2 and Sch.
- ¹⁴⁷. Subs. by Act 10 of 1927, S. 2 and Sch. I. Prior to substitution it read as:
"Articles of War, for the better government of Her Majesty's Army, or to the Articles of War contained in Act No. 5 of 1869".
- ¹⁴⁸. Subs. for "the Indian Army Act, 1911" by Act 3 of 1951.
- ¹⁴⁹. *Ins.* by Act 35 of 1934, S. 2 and Sch.
- ¹⁵⁰. The words "or that Act as modified by" were *omitted* by the A.O. 1950.
- ¹⁵¹. Subs. for "or the Air Force Act" by Act 14 of 1932, S. 130 and Sch.

- ^{152.} *Subs.* for "the Indian Air Force Act, 1932" by Act 3 of 1951.
- ^{153.} *Subs.* for "or sailor" by Act 10 of 1927, S. 2 and Sch. I.
- ^{154.} *Subs.* for "or Navy" by Act 10 of 1927, S. 2 and Sch. I.
- ^{155.} *Subs.* for "Queen" by the A.O. 1950.
- ^{156.} *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- ^{157.} *Subs.* for "or sailor" by Act 10 of 1927, S. 2 and Sch. I.
- ^{158.} *Subs.* for "or Navy" by Act 10 of 1927, S. 2 and Sch. I.
- ^{159.} *Subs.* for "Queen" by the A.O. 1950.
- ^{160.} *Subs.* for "or sailor" by Act 10 of 1927, S. 2 and Sch. I.
- ^{161.} *Subs.* for "or Navy" by Act 10 of 1927, S. 2 and Sch. I.
- ^{162.} *Subs.* for "Queen" by the A.O. 1950.
- ^{163.} *Subs.* for "or sailor" by Act 10 of 1927, S. 2 and Sch. I.
- ^{164.} *Subs.* for "or Navy" by Act 10 of 1927, S. 2 and Sch. I.
- ^{165.} *Subs.* for "Queen" by the A.O. 1950.
- ^{166.} *Subs.* for "or sailor" by Act 10 of 1927, S. 2 and Sch. I.
- ^{167.} *Subs.* for "or Navy" by Act 10 of 1927, S. 2 and Sch. I.
- ^{168.} *Subs.* for "Queen" by the A.O. 1950.
- ^{169.} *Subs.* for "or sailor" by Act 10 of 1927, S. 2 and Sch. I.
- ^{170.} *Subs.* for "or Navy" by Act 10 of 1927, S. 2 and Sch. I.
- ^{171.} *Subs.* for "Queen" by the A.O. 1950.
- ^{172.} *Subs.* for "or sailor" by Act 10 of 1927, S. 2 and Sch. I.
- ^{173.} *Subs.* for "or Navy" by Act 10 of 1927, S. 2 and Sch. I.
- ^{174.} *Subs.* for "Queen" by the A.O. 1950.
- ^{175.} *Omitted* by the Act 35 of 1934, S. 2 and Sch.
- ^{176.} *Subs.* by Act 10 of 1927, S. 2 and Sch. I. Prior to substitution it read as:

"any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy".

¹⁷⁷. Subs. for "the Indian Army Act, 1911" by Act 3 of 1951.

¹⁷⁸. Ins. by Act 35 of 1934, S. 2 and Sch.

¹⁷⁹. The words "or that Act as modified by" were *omitted* by the A.O. 1950.

¹⁸⁰. Subs. for "or the Air Force Act" by Act 14 of 1932, S. 130 and Sch.

¹⁸¹. Subs. for "the Indian Air Force Act, 1932" by Act 3 of 1951.

¹⁸². Ins. by Act 10 of 1927, S. 2 and Sch. I.

¹⁸³. Subs. for "or Naval" by Act 10 of 1927, S. 2 and Sch. I.

¹⁸⁴. Subs. for "Queen" by the A.O. 1950.

¹⁸⁵. Ins. by Act 10 of 1927, S. 2 and Sch. I.

¹⁸⁶. Ins. by Act 10 of 1927, S. 2 and Sch. I.

¹⁸⁷. Subs. by the A.O. 1950. Prior to substitution it read as:
"the Central or any Provincial Government or Legislature".

¹⁸⁸. Subs. by Criminal and Election Laws (Amendment) Act, 1969 (35 of 1969), S. 2. Prior to *substitution* it read as:

"153-A. *Promoting enmity between classes.*—Whoever by words, either spoken or written, or by signs or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of the citizens of India, shall be punished with imprisonment which may extend to two years, or with fine or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce, feelings of enmity or hatred between different classes of the citizens of India."

¹⁸⁹. Ins. by Criminal Law Amendment Act, 1972 (31 of 1972), S. 2, dt. 14-6-1972.

¹⁹⁰. Ins. by Criminal Law Amendment Act, 1972 (31 of 1972), S. 2, dt. 14-6-1972.

¹⁹¹. Ins. by Act 25 of 2005, S. 44(a) (w.e.f. a date to be notified).

¹⁹². Ins. by Criminal Law Amendment Act, 1972 (31 of 1972), S. 2, dt. 14-6-1972.

¹⁹³. *Omitted* by Act 49 of 1988, S. 31 of the Prevention of Corruption Act, 1988 provides that Section 6 of the General Clauses Act, 1897 shall apply to such omission as if the said

sections had been repealed by a Central Act.

Prior to omission by Prevention of Corruption Act, 1988, Section 161 read as:

'161. Public servant taking gratification other than legal remuneration in respect of an official act.—Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with the Central or any State Government or Parliament or the Legislature of any State, or with any local authority, corporation or Government company referred to in Section 21, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—“Expecting to be a public servant”. If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

“Gratification.” The word “gratification” is not restricted to pecuniary gratifications, or to gratifications estimable in money.

“Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government, which he serves, to accept.

“A motive or reward for doing”. A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations

(a) A, a munsif, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.

(b) A, holding the office of Consul in a Foreign State, accept a lakh of rupees from the Minister of that State. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that State with the Government of India. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that State. A has committed the offence defined in this section.

(c) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.¹⁹⁴.

¹⁹⁴. *Omitted by Act 49 of 1988, S. 31 of the Prevention of Corruption Act, 1988 provides that Section 6 of the General Clauses Act, 1897 shall apply to such omission as if the said sections had been repealed by a Central Act.*

Prior to omission by Prevention of Corruption Act, 1988, Section 162 read as:

"162. Taking gratification, in order, by corrupt or illegal means, to influence public servant.—Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person, with the Central or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in Section 21, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

^{195.} *Omitted* by Act 49 of 1988, S. 31 of the Prevention of Corruption Act, 1988 provides that Section 6 of the General Clauses Act, 1897 shall apply to such omission as if the said sections had been repealed by a Central Act.

Prior to omission by Prevention of Corruption Act, 1988, Section 163 read as:

"163. Taking gratification, for exercise of personal influence with public servant.—Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central or any State Government or Parliament or the Legislature of any State, or with any local authority, corporation or Government company referred to in Section 21, or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both."

Illustrations

An advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust,—are not within this section, inasmuch as they do not exercise or profess to exercise personal influence."

^{196.} *Omitted* by Act 49 of 1988, S. 31 of the Prevention of Corruption Act, 1988 provides that Section 6 of the General Clauses Act, 1897 shall apply to such omission as if the said sections had been repealed by a Central Act.

Prior to omission by Prevention of Corruption Act, 1988, Section 164 read as:

"164. Punishment for abetment by public servant of offences defined in Section 162 and or 163.—Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

Illustrations

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or both.”.

¹⁹⁷. *Omitted* by Act 49 of 1988, S. 31 of the Prevention of Corruption Act, 1988 provides that Section 6 of the General Clauses Act, 1897 shall apply to such omission as if the said sections had been repealed by a Central Act.

Prior to omission by Prevention of Corruption Act, 1988, Section 165 read as:

“165. *Public servant obtaining valuable thing, without consideration, from person concerned in proceeding or business transacted by such public servant.*—Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate,

from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustrations

(a) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(b) A, a Judge, buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.”.

¹⁹⁸. *Omitted* by Act 49 of 1988, S. 31 of the Prevention of Corruption Act, 1988 provides that Section 6 of the General Clauses Act, 1897 shall apply to such omission as if the said sections had been repealed by a Central Act.

Prior to omission by Prevention of Corruption Act, 1988, Section 165-A read as:

“165-A. *Punishment for abetment of offences defined in Section 161 or Section 165.*—Whoever, abets any offence punishable under Section 161 or Section 165, whether or not that offence is committed in consequence of the abetment, shall be punished with imprisonment of either description for a term which may extend to three years, or with

fine, or with both.”.

¹⁹⁹. *Ins.* by Act 13 of 2013, S. 3 (w.r.e.f. 3-2-2013).

²⁰⁰. *Subs.* for “Section 376-B, Section 376-C, Section 376-D” by Act 22 of 2018, S. 2 (w.r.e.f. 21-4-2018).

²⁰¹. *Subs.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000). Prior to substitution it read as:

“such public servant, charged with the preparation or translation of any document, frames or translates that document”

²⁰². Chapter IX-A was *ins.* by Act 39 of 1920, S. 2.

²⁰³. *Subs.* by the Election Law (Amendment) Act, 1975 (40 of 1975), S. 9, dt. 6-8-1975.

²⁰⁴. *Ins.* by Act 24 of 2003, S. 5 (w.e.f. 22-9-2003).

²⁰⁵. *Subs.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

²⁰⁶. *Subs.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

²⁰⁷. *Subs.* for “Supreme Court” by the A.O. 1950.

²⁰⁸. *Subs.* for “Zila Judge” by the A.O. 1950.

²⁰⁹. *Subs.* for “Zila Judge” by the A.O. 1950.

²¹⁰. *Ins.* by Act 25 of 2005, S. 44(b) (w.e.f. 23-6-2006).

²¹¹. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

²¹². *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

²¹³. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

²¹⁴. *Subs.* for “Zila Court” by the A.O. 1950.

²¹⁵. *Ins.* by Act 22 of 1939, S. 2.

²¹⁶. *See now* S. 356, CrPC, 1973 (2 of 1974).

²¹⁷. *Rep.* by Act 17 of 1862.

²¹⁸. *Ins.* by Act 3 of 1894, S. 5.

²¹⁹. *Subs.* for “the States” by Act 3 of 1951 (w.e.f. 1-4-1951).

²²⁰. *Subs.* for “the States” by Act 3 of 1951 (w.e.f. 1-4-1951).

²²¹. *Ins.* by Act 10 of 1873, S. 15.

²²². *Ins.* by Act 10 of 1873, S. 15.

²²³. *Ins.* by Act 10 of 1873, S. 15.

²²⁴. *Subs.* by Act 3 of 1895, S. 1. Prior to substitution it read as:

"182. False information, with intent to cause a public servant to use his lawful power to the injury of another person.—Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do or omit anything which such public servant ought not to do or omit, if the true state of facts respecting which such information is given were known by him, 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.

Illustrations

(a) A informs a Magistrate that Z, a police officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section."

²²⁵. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

²²⁶. *Ins.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

²²⁷. The words "or before a Military Court of Request" *omitted* by Act 13 of 1889, S. 2 & Sch.

²²⁸. *Subs.* for "by the law of British India or England" by the A.O. 1948.

²²⁹. *Subs.* for "the States" by Act 3 of 1951, S. 3 & Sch. (w.e.f. 1-4-1951).

²³⁰. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²³¹. *Subs.* for "by the law of British India or England" by the A.O. 1948.

²³². *Subs.* for "the States" by Act 3 of 1951, S. 3 & Sch. (w.e.f. 1-4-1951).

²³³. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²³⁴. *Subs.* for "such transportation" by Act 26 of 1955, S. 117 and Sch.

²³⁵. *Subs.* for "such transportation" by Act 26 of 1955, S. 117 and Sch.

²³⁶. *Ins.* by Act 2 of 2006, S. 2 (w.e.f. 16-4-2006). Heading of Section 195-A corrected by the corrigendum published in the Gazette of India, Extra., Part II, Section 1, dated 3-3-2006.

²³⁷. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²³⁸. *Ins.* by Act 3 of 1894, S. 6.

²³⁹. *Subs.* for "the States" by Act 3 of 1951.

²⁴⁰. *Subs.* for "the States" by Act 3 of 1951.

²⁴¹. *Subs.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

²⁴². *Subs.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

²⁴³. *Subs.* by Act 21 of 2000, S. 91 & Sch. I (w.e.f. 17-10-2000).

²⁴⁴. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁴⁵. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁴⁶. *Ins.* by Act 3 of 1894, S. 7.

²⁴⁷. *Subs.* for "the States" by Act 3 of 1951, S. 3 & Sch. (w.e.f. 1-4-1951).

²⁴⁸. *Subs.* for "the States" by Act 3 of 1951, S. 3 & Sch. (w.e.f. 1-4-1951).

²⁴⁹. *Subs.* for "the States" by Act 3 of 1951, S. 3 & Sch. (w.e.f. 1-4-1951).

²⁵⁰. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁵¹. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁵². *Subs.* for "to restore or cause the restoration of" by Act 42 of 1953, S. 4 and Sch. III.

²⁵³. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁵⁴. *Subs.* by Act 8 of 1882, S. 6.

²⁵⁵. *Omitted* by Act 10 of 1882, S. 2 & Sch. I. Prior to omission it read as:

" Illustrations

(a) *A* assaults *B* with intent to commit murder. Here, as the offence does not consist of the assault only, irrespective of the intention to commit murder, it does not fall within the exception, and cannot therefore be compounded.

(b) *A* assaults *B*. Here, as the offence consists simply of the act, irrespective of the intention of the offender and as *B* may have a civil action for the assault, it is within the exception and may be compounded.

(c) A commits the offence of bigamy. Here as the offence is not the subject of a civil action, it cannot be compounded.

(d) B commits the offence of adultery with a married woman. The offence may be compounded."

²⁵⁶. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁵⁷. Ins. by Act 10 of 1886, S. 23.

²⁵⁸. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).

²⁵⁹. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).

²⁶⁰. The words "or under the Fugitive Offenders Act, 1881" *omitted* by Act 3 of 1951.

²⁶¹. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).

²⁶². Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).

²⁶³. Ins. by Act 3 of 1894, S. 8.

²⁶⁴. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).

²⁶⁵. *Omitted* by the Act 8 of 1942, S. 3.

²⁶⁶. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁶⁷. Ins. by Act 27 of 1870, S. 8.

²⁶⁸. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁶⁹. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁷⁰. The words "or penal servitude for life" *omitted* by Act 17 of 1949, S. 2.

²⁷¹. The words "or to" *omitted* by Act 36 of 1957, S. 3 and Sch. II (w.e.f. 17-9-1957).

²⁷². The words "transportation" *omitted* by Act 26 of 1955, S. 117 and Sch.

²⁷³. The words "or penal servitude" *omitted* by Act 17 of 1949, S. 2.

²⁷⁴. Ins. by Act 27 of 1870, S. 8.

²⁷⁵. Ins. by Act 27 of 1870, S. 8.

²⁷⁶. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁷⁷. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

²⁷⁸. The words "or to" *omitted* by Act 36 of 1957, S. 3 and Sch. II (w.e.f. 17-9-1957).

- ²⁷⁹. The word "transportation" *omitted* by Act 26 of 1955.
- ²⁸⁰. The words "penal servitude" *omitted*. by Act 17 of 1949, S. 2.
- ²⁸¹. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- ²⁸². *Subs.* by Act 10 of 1886, S. 24(1). Earlier *inserted* by Act 27 of 1870, S. 9.
- ²⁸³. *Subs.* by Act 10 of 1886, S. 24(1).
- ²⁸⁴. *Omitted* by the Act 26 of 1955, S. 117 and Sch. Prior to omission it read as:
"226. *Unlawful return from transportation*.—Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported."
- ²⁸⁵. *Ins.* by Criminal Law Amendment Act, 1983, S. 2 (Act 43 of 1983).
- ²⁸⁶. *Subs.* by Act 13 of 2013, S. 4 (w.r.e.f. 3-2-2013). Prior to substitution it read as:
"offence under Section 376, Section 376-A, Section 376-B, Section 376-C or Section 376-D"
- ²⁸⁷. *Subs.* by Act 22 of 2018, S. 3 (w.r.e.f. 21-4-2018). Prior to substitution it read as:
"offence under Section 376, Section 376-A, Section 376-B, Section 376-C or Section 376-D"
- ²⁸⁸. *Ins.* by Act 25 of 2005, S. 44(c) (w.e.f. 23-6-2006).
- ²⁸⁹. *Subs.* by Act 19 of 1872, S. 1. Prior to substitution it read as:
"Coin is metal used as money stamped and issued by the authority of some Government in order to be so used."
- ²⁹⁰. *Subs.* by the A.O. 1950. Prior to substitution it read as:
"*Queen's Coin*.—Coin stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's dominions is designated as the Queen's coin.
- ²⁹¹. *Subs.* for "the Queen's coin" by the A.O. 1950.
- ²⁹². *Ins.* by Act 6 of 1896, S. 1.
- ²⁹³. *Subs.* for "the Queen's coin" by the A.O. 1950.
- ²⁹⁴. *Subs.* for "the Queen's coin" by the A.O. 1950.
- ²⁹⁵. *Subs.* for "transportation for life" by Act 26 of 1955, S. 117 and Sch.

- ²⁹⁶. Subs. for "the Queen's coin" by the A.O. 1950.
- ²⁹⁷. Subs. for "the Queen's coin" by the A.O. 1950.
- ²⁹⁸. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- ²⁹⁹. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- ³⁰⁰. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- ³⁰¹. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- ³⁰². Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- ³⁰³. Subs. for "the Queen's coin" by the A.O. 1950.
- ³⁰⁴. Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- ³⁰⁵. Subs. for "the Queen's coin" by the A.O. 1950.
- ³⁰⁶. Subs. for "the Queen's coin" by the A.O. 1950.
- ³⁰⁷. Subs. for "the Queen's coin" by the A.O. 1950.
- ³⁰⁸. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- ³⁰⁹. Subs. for "the States" by Act 3 of 1951 (w.e.f. 1-4-1951).
- ³¹⁰. Subs. for "any of the Queen's coin" by the A.O. 1950.
- ³¹¹. Subs. for "any of the Queen's coin" by the A.O. 1950.
- ³¹². Subs. for "transportation for life" by Act 26 of 1955, S. 117 and Sch.
- ³¹³. Ins. by Act 3 of 1895, S. 2.
- ³¹⁴. Subs. for "may be seized and" by Act 42 of 1953, S. 4 and Sch. III.
- ³¹⁵. The word "and" omitted by Act 42 of 1953, S. 4 and Sch. III.

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