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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE (Legislative Department)

*New Delhi, the 25th December, 2023/Pausha 4, 1945 (Saka)*

The following Act of Parliament received the assent of the President on the 25th December, 2023 and is hereby published for general information:—

### THE BHARATIYA NYAYA SANHITA, 2023

No. 45 OF 2023

[25th December, 2023.]

An Act to consolidate and amend the provisions relating to offences and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

#### CHAPTER I

##### PRELIMINARY

1. (1) This Act may be called the Bharatiya Nyaya Sanhita, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Sanhita.

Short title,  
commencement  
and  
application.

(3) Every person shall be liable to punishment under this Sanhita and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within India.

(4) Any person liable, by any law for the time being in force in India, to be tried for an offence committed beyond India shall be dealt with according to the provisions of this Sanhita for any act committed beyond India in the same manner as if such act had been committed within India.

(5) The provisions of this Sanhita shall also apply to any offence committed by—

- (a) any citizen of India in any place without and beyond India;
- (b) any person on any ship or aircraft registered in India wherever it may be;
- (c) any person in any place without and beyond India committing offence targeting a computer resource located in India.

*Explanation.*—In this section, the word “offence” includes every act committed outside India which, if committed in India, would be punishable under this Sanhita.

*Illustration.*

A, who is a citizen of India, commits a murder in any place without and beyond India. He can be tried and convicted of murder in any place in India in which he may be found.

(6) Nothing in this Sanhita 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.

Definitions.

2. In this Sanhita, unless the context otherwise requires,—

- (1) “act” denotes as well a series of acts as a single act;
- (2) “animal” means any living creature, other than a human being;
- (3) “child” means any person below the age of eighteen years;
- (4) “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.

*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;

(5) “Court” means 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;

(6) “death” means the death of a human being unless the contrary appears from the context;

(7) “dishonestly” means doing anything with the intention of causing wrongful gain to one person or wrongful loss to another person;

(8) “document” means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, and includes electronic and digital record, 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 or not.

*Illustrations.*

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

(b) A cheque upon a banker is a document.

(c) A power-of-attorney is a document.

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

(e) 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 shall 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;

(9) “fraudulently” means doing anything with the intention to defraud but not otherwise;

(10) “gender”.—The pronoun “he” and its derivatives are used of any person, whether male, female or transgender.

*Explanation.*—“transgender” shall have the meaning assigned to it in clause (k) of section 2 of the Transgender Persons (Protection of Rights) Act, 2019;

(11) “good faith”.—Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention;

(12) “Government” means the Central Government or a State Government;

(13) “harbour” includes 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 clause or not, to evade apprehension;

(14) “injury” means any harm whatever illegally caused to any person, in body, mind, reputation or property;

(15) “illegal” and “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;

(16) “Judge” means a person who is officially designated as a Judge and includes a person,—

(i) 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

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

*Illustration.*

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;

(17) “life” means the life of a human being, unless the contrary appears from the context;

(18) “local law” means a law applicable only to a particular part of India;

(19) “man” means male human being of any age;

(20) “month” and “year”.—Wherever the word “month” or the word “year” is used, it is to be understood that the month or the year is to be reckoned according to the Gregorian calendar;

(21) “movable property” includes property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth;

(22) “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;

(23) “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 or not;

(24) “offence”.—Except in the Chapters and sections mentioned in sub-clauses (a) and (b), the word “offence” means a thing made punishable by this Sanhita, but—

(a) in Chapter III and in the following sections, namely, sub-sections (2), (3), (4) and (5) of section 8, sections 9, 49, 50, 52, 54, 55, 56, 57, 58, 59, 60, 61, 119, 120, 123, sub-sections (7) and (8) of section 127, 222, 230, 231, 240, 248, 250, 251, 259, 260, 261, 262, 263, sub-sections (6) and (7) of section 308 and sub-section (2) of section 330, the word “offence” means a thing punishable under this Sanhita, or under any special law or local law; and

(b) in sub-section (1) of section 189, sections 211, 212, 238, 239, 249, 253 and sub-section (1) of section 329, the word “offence” shall have the same meaning when the act punishable under the special law or local law is punishable under such law with imprisonment for a term of six months or more, whether with or without fine;

(25) “omission” denotes as well as a series of omissions as a single omission;

(26) “person” includes any company or association or body of persons, whether incorporated or not;

(27) “public” includes any class of the public or any community;

(28) “public servant” means a person falling under any of the descriptions, namely:—

(a) every commissioned officer in the Army, Navy or Air Force;

(b) 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;

(c) every officer of a Court 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 to perform any of such duties;

(d) every assessor or member of a panchayat assisting a Court or public servant;

(e) every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court, or by any other competent public authority;

(f) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

(g) every officer of 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;

(h) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government;

(i) 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;

(j) every person who holds any office by 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;

(k) every person—

(i) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;

(ii) in the service or pay of a local authority as defined in clause (31) of section 3 of the General Clauses Act, 1897, a corporation established by or under a Central or State Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013.

10 of 1897.

18 of 2013.

*Explanation.*—

(a) persons falling under any of the descriptions made in this clause are public servants, whether appointed by the Government or not;

(b) 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 is a public servant;

(c) “election” means 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 for the time being in force.

*Illustration.*

A Municipal Commissioner is a public servant;

(29) “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;

(30) “special law” means a law applicable to a particular subject;

(31) “valuable security” means 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”;

(32) “vessel” means anything made for the conveyance by water of human beings or of property;

(33) “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 a 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;

(34) “will” means any testamentary document;

(35) “woman” means a female human being of any age;

(36) “wrongful gain” means gain by unlawful means of property to which the person gaining is not legally entitled;

(37) “wrongful loss” means the loss by unlawful means of property to which the person losing it is legally entitled;

(38) “gaining wrongfully” and “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; and

(39) words and expressions used but not defined in this Sanhita but defined in the Information Technology Act, 2000 and the Bharatiya Nagarik Suraksha Sanhita, 2023 shall have the meanings respectively assigned to them in that Act and Sanhita. 21 of 2000.

General  
explanations.

3. (1) Throughout this Sanhita 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 Sanhita, 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”.

(2) Every expression which is explained in any Part of this Sanhita, is used in every Part of this Sanhita in conformity with the explanation.

(3) When property is in the possession of a person's spouse, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Sanhita.

*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 sub-section.

(4) In every Part of this Sanhita, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

(5) 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.

(6) 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.

(7) 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.

(8) When an offence is committed by means of several acts, whoever intentionally cooperates 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 effects the several doses of poison so administered to him. Here A and B intentionally cooperate 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 cooperate 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 cooperation 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 cooperate with B. A is guilty only of an attempt to commit murder.

(9) 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 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.

## CHAPTER II

### OF PUNISHMENTS

Punishments. 4. The punishments to which offenders are liable under the provisions of this Sanhita are—

- (a) Death;
- (b) Imprisonment for life;
- (c) Imprisonment, which is of two descriptions, namely:—
  - (1) Rigorous, that is, with hard labour;
  - (2) Simple;
- (d) Forfeiture of property;
- (e) Fine;
- (f) Community Service.

Commutation of sentence. 5. The appropriate Government may, without the consent of the offender, commute any punishment under this Sanhita to any other punishment in accordance with section 474 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

*Explanation.*—For the purposes of this section 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.

Fractions of terms of punishment. 6. In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years unless otherwise provided.

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple. 7. 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.

Amount of fine, liability in default of payment of fine, etc. 8. (1) 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.

(2) In every case of an offence—

- (a) punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment;
- (b) punishable 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, in 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.



(3) 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.

(4) The imprisonment which the Court imposes in default of payment of a fine or in default of community service may be of any description to which the offender might have been sentenced for the offence.

(5) If the offence is punishable with fine or community service, the imprisonment which the Court imposes in default of payment of the fine or in default of community service shall be simple, and the term for which the Court directs the offender to be imprisoned, in default of payment of fine or in default of community service, shall not exceed,—

(a) two months when the amount of the fine does not exceed five thousand rupees;

(b) four months when the amount of the fine does not exceed ten thousand rupees; and

(c) one year in any other case.

(6) (a) 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;

(b) 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 thousand rupees and to four months' imprisonment in default of payment. Here, if seven hundred and fifty 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 seven hundred and fifty 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 five hundred 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 five hundred 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.

(7) 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.

9. (1) 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 his offences, unless it be so expressly provided.

Limit of punishment of offence made up of several offences.

(2) Where—

(a) 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

(b) 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 given to Y.

Punishment of person guilty of one of several offences, judgment stating that it is doubtful of which.

**10.** 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.

Solitary confinement.

**11.** Whenever any person is convicted of an offence for which under this Sanhita 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, namely:—

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

(b) a time not exceeding two months if the term of imprisonment shall exceed six months and shall not exceed one year;

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

Limit of solitary confinement.

**12.** 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.

Enhanced punishment for certain offences after previous conviction.

**13.** Whoever, having been convicted by a Court in India, of an offence punishable under Chapter X or Chapter XVII of this Sanhita 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 like imprisonment for the like term, shall be subject for every such subsequent offence to imprisonment for life, or to imprisonment of either description for a term which may extend to ten years.

### CHAPTER III

#### GENERAL EXCEPTIONS

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

**14.** 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, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

15. 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.

Act of Judge when acting judicially.

16. Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court; 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.

Act done pursuant to judgment or order of Court.

17. 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.

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

*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 fact, 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.

18. 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.

Accident in doing a lawful act.

*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.

19. 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.

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

*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 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.

Act of a child under seven years of age.

**20.** Nothing is an offence which is done by a child under seven years of age.

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

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

Act of a person of unsound mind.

**22.** 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.

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

**23.** 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.

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

**24.** 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.

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

**25.** 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.

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

**26.** 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 the 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.

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

**27.** Nothing which is done in good faith for the benefit of a person under twelve years of age, or person 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 that this exception shall not extend to—

- (a) the intentional causing of death, or to the attempting to cause death;
- (b) 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;

(c) 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;

(d) 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, in as much as his object was the cure of the child.

**28.** A consent is not such a consent as is intended by any section of this Sanhita,—

(a) 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

(b) 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

(c) unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

Consent known to be given under fear or misconception.

**29.** The exceptions in sections 25, 26 and 27 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.

Exclusion of acts which are offences independently of harm caused.

*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.

**30.** 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:

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

Provided that this exception shall not extend to—

(a) the intentional causing of death, or the attempting to cause death;

(b) 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;

(c) the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

(d) the abetment of any offence, to the committing of which offence it would not extend.

*Illustrations.*

(1) 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.

(2) 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 bullet gives Z a mortal wound. A has committed no offence.

(3) 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.

(4) 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 26, 27 and this section.

Communication made in good faith.

**31.** 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.

Act to which a person is compelled by threats.

**32.** 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 that 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.

Act causing slight harm.

**33.** 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 right of private defence*

Things done in private defence.

**34.** Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of body and of property.

**35.** Every person has a right, subject to the restrictions contained in section 37, to defend—

(a) his own body, and the body of any other person, against any offence affecting the human body;

(b) 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.

**36.** 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.

Right of private defence against act of a person of unsound mind, etc.

*Illustrations.*

(a) Z, a person of unsound mind, 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.

**37.** (1) There is no right of private defence,—

Acts against which there is no right of private defence.

(a) 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;

(b) 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;

(c) in cases in which there is time to have recourse to the protection of the public authorities.

(2) 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.

**38.** The right of private defence of the body extends, under the restrictions specified in section 37, 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:—

When right of private defence of body extends to causing death.

(a) such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

(b) such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

(c) an assault with the intention of committing rape;

(d) an assault with the intention of gratifying unnatural lust;

(e) an assault with the intention of kidnapping or abducting;



(f) 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;

(g) 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.

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

**39.** If the offence be not of any of the descriptions specified in section 38, 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 specified in section 37, to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of right of private defence of body.

**40.** 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 such apprehension of danger to the body continues.

When right of private defence of property extends to causing death.

**41.** The right of private defence of property extends, under the restrictions specified in section 37, 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:—

(a) robbery;

(b) house-breaking after sunset and before sunrise;

(c) mischief by fire or any explosive substance 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;

(d) 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.

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

**42.** 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 specified in section 41, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions specified in section 37, to the voluntary causing to the wrong-doer of any harm other than death.

Commencement and continuance of right of private defence of property.

**43.** The right of private defence of property,—

(a) commences when a reasonable apprehension of danger to the property commences;

(b) 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;

(c) 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;

(d) against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief;

(e) against house-breaking after sunset and before sunrise continues as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against deadly assault when there is risk of harm to innocent person.

**44.** 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 IV

### OF ABETMENT, CRIMINAL CONSPIRACY AND ATTEMPT

#### *of abetment*

**45.** A person abets the doing of a thing, who—

Abetment of a thing.

(a) instigates any person to do that thing; or

(b) 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

(c) 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 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.

**46.** 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.

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 a person of unsound mind 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 his unsoundness of 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.

Abetment in  
India of  
offences  
outside India.

**47.** A person abets an offence within the meaning of this Sanhita who, in India, abets the commission of any act without and beyond India which would constitute an offence if committed in India.

*Illustration.*

A, in India, instigates B, a foreigner in country X, to commit a murder in that country, A is guilty of abetting murder.

Abetment  
outside India  
for offence in  
India.

**48.** A person abets an offence within the meaning of this Sanhita who, without and beyond India, abets the commission of any act in India which would constitute an offence if committed in India.

*Illustration.*

A, in country X, instigates B, to commit a murder in India, A is guilty of abetting murder.

**49.** Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Sanhita for the punishment of such abetment, be punished with the punishment provided for the offence.

Punishment of abetment if act abetted is committed in consequence and where no express provision is made for its punishment.

*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 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.

(b) 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.

**50.** 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.

Punishment of abetment if person abetted does act with different intention from that of abettor.

**51.** 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:

Liability of abettor when one act abetted and different act done.

Provided that 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.

**52.** If the act for which the abettor is liable under section 51 is committed in addition to the act abetted, and constitute a distinct offence, the abettor is liable to punishment for each of the offences.

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

*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.

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

**53.** 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, causes 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.

Abettor present when offence is committed.

**54.** Whenever any person, who is 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.

Abetment of offence punishable with death or imprisonment for life.

**55.** Whoever abets the commission of an offence punishable with death or imprisonment for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made under this Sanhita 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; 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 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.

Abetment of offence punishable with imprisonment.

**56.** 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 under this Sanhita 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; 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 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.

(b) 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.

(c) 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.

**57.** 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 seven years and with fine.

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

*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.

**58.** Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or imprisonment for life, 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 shall,—

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

(a) if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years; or

(b) if the offence be not committed, with imprisonment of either description, for a term which may extend to three years,

and 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 pursuant to the design. A is punishable under this section.

**59.** 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, 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 shall,—

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

(a) 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; or

(b) if the offence be punishable with death or imprisonment for life, with imprisonment of either description for a term which may extend to ten years; or

(c) 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 so 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.

Concealing  
design to  
commit  
offence  
punishable  
with  
imprisonment.

**60.** 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 shall,—

(a) 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

(b) 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.

#### *Of criminal conspiracy*

Criminal  
conspiracy.

**61. (1)** When two or more persons agree with the common object to do, or cause to be done—

(a) an illegal act; or

(b) 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.

(2) Whoever is a party to a criminal conspiracy,—

(a) to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Sanhita for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence;

(b) 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.

#### *Of attempt*

Punishment for  
attempting to  
commit  
offences  
punishable with  
imprisonment  
for life or  
other  
imprisonment.

**62.** Whoever attempts to commit an offence punishable by this Sanhita with imprisonment for life or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Sanhita for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

#### *Illustrations.*

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.



## CHAPTER V

## OF OFFENCES AGAINST WOMAN AND CHILD

*Of sexual offences*

**63.** A man is said to commit “rape” if he—

Rape.

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:—

(i) against her will;

(ii) without her consent;

(iii) with her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt;

(iv) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married;

(v) with her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent;

(vi) with or without her consent, when she is under eighteen years of age;

(vii) when she is unable to communicate consent.

*Explanation 1.*—For the purposes of this section, “vagina” shall also include *labia majora*.

*Explanation 2.*—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

*Exception 1.*—A medical procedure or intervention shall not constitute rape.

*Exception 2.*—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape.

**64.** (1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment  
for rape.

(2) Whoever,—

(a) being a police officer, commits rape,—

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central Government or a State Government commits rape in such area; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

(g) commits rape during communal or sectarian violence; or

(h) commits rape on a woman knowing her to be pregnant; or

(i) commits rape, on a woman incapable of giving consent; or

(j) being in a position of control or dominance over a woman, commits rape on such woman; or

(k) commits rape on a woman suffering from mental or physical disability; or

(l) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or

(m) commits rape repeatedly on the same woman,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which 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.

*Explanation.*—For the purposes of this sub-section,—

(a) “armed forces” means the naval, army and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) “hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) “police officer” shall have the same meaning as assigned to the expression “police” under the Police Act, 1861;

(d) “women's or children's institution” means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

**65. (1)** Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which 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:

Punishment for rape in certain cases.

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim.

**(2)** Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which 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:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim.

**66.** Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 64 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.

Punishment for causing death or resulting in persistent vegetative state of victim.

**67.** Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

Sexual intercourse by husband upon his wife during separation.

*Explanation.*—In this section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of section 63.

**68.** Whoever, being—

(a) in a position of authority or in a fiduciary relationship; or

(b) a public servant; or

(c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or

(d) on the management of a hospital or being on the staff of a hospital,

abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

Sexual intercourse by a person in authority.

*Explanation 1.*—In this section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of section 63.

*Explanation 2.*—For the purposes of this section, *Explanation 1* to section 63 shall also be applicable.

*Explanation 3.*—“Superintendent”, in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

*Explanation 4.*—The expressions “hospital” and “women’s or children’s institution” shall respectively have the same meanings as in clauses (b) and (d) of the *Explanation* to sub-section (2) of section 64.

Sexual  
intercourse  
by employing  
deceitful  
means, etc.

**69.** Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

*Explanation.*—“deceitful means” shall include inducement for, or false promise of employment or promotion, or marrying by suppressing identity.

Gang rape.

**70. (1)** Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person’s natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim.

(2) Where a woman under eighteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and with fine, or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim.

Punishment  
for repeat  
offenders.

**71.** Whoever has been previously convicted of an offence punishable under section 64 or section 65 or section 66 or section 70 and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person’s natural life, or with death.

Disclosure of  
identity of  
victim of  
certain  
offences, etc.

**72. (1)** Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under section 64 or section 65 or section 66 or section 67 or section 68 or section 69 or section 70 or section 71 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 a child 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.