

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.

S. 376B : Sexual intercourse by husband upon his wife during separation –

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.

Explanation. – In this Section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of Section 375.

S. 376C. : Sexual intercourse by a person in authority :

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.

Explanation 1 : In this Section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of Section 375.

Explanation 2 : For the purposes of this Section, *Explanation 1* to Section 375 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 meaning as in *Explanation* to sub-section (2) of Section 376.

[S. 376D] : Gang Rape

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 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 Section shall be paid to the victim.

“Gang Rape” :

When a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape.

Gang Rape is an offence of Rape primarily; But it is committed by number of persons together with their common intention to do the same. The Court can take a serious cognisance of the same while considering the quantum of punishment for the offence. Maximum punishment of life imprisonment can be awarded to all the offenders involved in such a heinous crime, as it adversely affects the victim in body and mind. Such an offence has great health and psychological impact on a victim and her relations too. Also, such an offence creates great sensations and uproar in the entire society.

CHAPTER - XV

"OFFENCES AGAINST PROPERTY" (Ss. 378 to 462).

This Chapter deals with offences against property. Every person has a right to own, possess and enjoy his property. Nobody can unlawfully deprive him of his right or cause damage to his property or commit trespass on his property.

The offences against property discussed under this Chapter can be broadly classified into following three categories:

- A) Depriving a person of his property – Ss.378 to 424;
- B) Damaging the property of a person – Ss.425 to 440;
- C) Criminal trespass on the property – Ss.441 to 462.

**There are 11 kinds of offences recognised in the abovesaid categories.
They are –**

- 1) Theft – Ss.378 to 382;
- 2) Extortion – Ss.383 to 389;
- 3) Robbery – Ss.390, 392 to 394, 397, 398, and 401;
- 4) Dacoity – Ss.391, 395 to 400, and 402;
- 5) Criminal misappropriation of property – Ss.403 - 404;
- 6) Criminal breach of trust – Ss.405 to 409;
- 7) Receiving stolen property – Ss.410 to 414;
- 8) Cheating – Ss.415 to 420;
- 9) Fraudulent deeds and disposition of property – Ss.421 to 424;
- 10) Mischief – Ss.425 to 440;
- 11) Criminal trespass – Ss.441 to 462.

1) Theft (S.378):

Definition:

"Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft".

Explanation 1 – A thing so long as it is attached to the earth, not being movable property, is not subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2 – A moving effected by the same act which effects the severance, may be theft.

Explanation 3 – A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as, by moving it.

Explanation 4 – A person, who by any means, causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5 – The consent mentioned in the definition, may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority, whether express or implied.

Illustrations:

- a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as, A has severed the tree in order to such taking, he has committed theft.

... extend to 3 years, or with fine, or with both".

Ingredients of the offence of theft:

- 1) Intention to take dishonestly;
- 2) Any movable property;
- 3) Out of the possession of any person;
- 4) Without that persons consent;
- 5) Moving of that property in order to take that property.

(Abbreviations remember above ingredients – **dm pcm**).

1. 'intending to take dishonestly' –

These words used in the definition mean, dishonest intention i.e. intention to cause wrongful gain to one person or wrongful loss to another person known as *animus furandi* (See S.23 and 24 IPC). Therefore, there must be dishonest intention (on the part of the offender) at the time of the moving of the property. Illustrations, **a, d, j, l, o**, are the examples of dishonest intention, whereas, Illustration **p** give the examples where there is no dishonest intention.

2. 'any movable property' –

These words mean 'the property must be a movable property of any kind i.e. corporeal property of every description. Only movable property can be become subject of theft. (See S.22 IPC and explanation I,II; and illustration **a** under this Section). The value of property stolen is immaterial. It may be of some value, though not negligible. Only gas stolen from its pipe is movable property and is subject of theft. Electricity u/s. 39 of Indian Electricity Act, 1910 can be a subject of theft. But human body whether living or dead (except those preserved in scientific institutions, hospitals, etc.) is not movable property.

Extortion – (Ss.383 to 389):

Definition:

S.383: "Whoever,

- i) intentionally puts any person in fear of any injury to that person, or to any other, and
- ii) thereby dishonestly induces the person so put in fear,
- iii) to deliver to any person any property or valuable security, of any thing signed or sealed which may be converted into a valuable security,
commits : "extortion".

Ingredients of the offence of 'extortion' –

- i) Intentionally putting any person in fear of any injury to that person, or to any other person;
- ii) Dishonestly inducing the person so put in fear, to deliver any property to any person.

'Intentionally putting any person in fear of any injury to that person, or to any other person' –

The offender must threaten a person (victim) with injury, a injury to body, mind, property or reputation (see the term 'injury' S.44). The fear created in the mind of the victim must be such that the victim is compelled to part with the property against his will and volition. The fear of injury may be caused to the victim or it may be to any other person in whom the victim is interested (see illustration b).

'Dishonestly inducing the person so put in fear to deliver any property to any person' –

The person so put in fear of injury (victim) must be induced to deliver the property on his own (property including valuable security also). If he does not on his own deliver the property to the offender, but offender only snatches it from him, it will be the offence of robbery u/s. 390 and not extortion under this Section.

The property demanded may be delivered at any place or at any time as directed by the offender.

grievous hurt to that person or any other person = Imprisonment upto 7 years and fine (S.387).
3) If the offence of extortion is committed by putting any person a) in fear of an accusation of an offence punishable with death or imprisonment for life or imprisonment for 10 years = Imprisonment upto 10 years and fine; b) fear of the accusation of an offence u/s.377 (i.e. unnatural offence) = Imprisonment for life (S.388).

4) Putting a person in fear of accusation of offence punishable with death or life in order to commit extortion = imprisonment upto 10 years and fine; If offence is punishable u/s.377 = Imprisonment for life (S.389).

Difference between theft and extortion:

1) In theft, offender takes the property without owner's consent.

In extortion, the consent of the owner is obtained by putting him in fear of injury.

2) In theft, the property is taken away by the offender himself.

In extortion, the property is delivered by the victim to the offender, or any other person as it is directed by the offender.

3) In theft, there is no element of fear.

In extortion, fear of injury is the necessary element.

4) In theft, only the moveable property can be subject of theft.

In extortion, even immoveable property can be subject of extortion.

Robbery (Ss.390, 392 to 394, 397 to 398):

Definition of Robbery (S.390) –

In all robbery, there is either theft or extortion.

When theft is robbery?

Theft is "robbery" if, **a) in order to the committing of the theft, or b) in committing the theft, or c) in carrying away or d) attempting to carry away property obtained by theft, the offender for that end, voluntarily causes hurt or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant hurt, or of instant wrongful restraint.**

Dacoity (Ss.391, 395 to 400 and 402):

Definition of 'dacoity' (S.391) –

When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity".

In fact dacoity is the same as robbery which is committed by five or more persons. This five or more number of persons only distinguishes dacoity from robbery, otherwise there is no difference between robbery and dacoity.

S.395: Punishment for dacoity –

"Whoever commits dacoity shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to 10 years, and shall also be liable to fine".

S.396: Dacoity with murder –

"If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or imprisonment for life, or rigorous imprisonment for a term which may extend to 10 years and shall also be liable to fine".

Ss.397 to 402 : Aggravated forms of dacoity –

- i) Offender using a) deadly weapon, b) causing grievous hurt to any person, c) attempting to cause death, or grievous hurt to any person = Imprisonment for not less than 7 years (S.397).
- ii) Offender armed with any deadly weapon at the time of attempting to commit robbery or dacoity = Imprisonment for not less than 7 years (S.398).
- iii) Offence of making preparation to commit dacoity = Imprisonment upto 10 years, and shall also be liable to fine (S.399).
- iv) A person belonging to the gang of dacoits habitually committing dacoity = Imprisonment for life, or rigorous imprisonment upto 10 years and fine (S.400).
- iv) Five or more persons assembling for the purpose of dacoity, each of them shall be punished = Rigorous imprisonment upto 7 years and fine (S.402).

Difference between Theft, Extortion, Robbery and Dacoity :

	Theft 378	Extortion 383	Robbery 390	Dacoity 391
1.	Only movable property can be subject matter of theft.	Any property can be subject matter of extortion.	Any property can be subject matter of robbery.	Any property can be subject matter of dacoity.
2.	Offender takes property without the consent of the victim.	Offender obtains the consent of the victim by putting him in a fear of injury i.e. unlawful consent.	There is no consent (in case when theft becomes robbery). There is unlawful consent (in case when extortion becomes robbery).	There is no consent (in case when theft becomes robbery) or, There is unlawful consent (in case extortion becomes robbery).
3.	No fear of injury or threatening necessary.	Threatening or fear of injury to the body, property mind or reputation is necessary.	Fear of instant injury to the body is necessary.	Fear of instant injury to the body is necessary.
4.	Even single person can commit theft.	Even a single person can commit extortion.	Even a single person can commit robbery.	Five or more persons are necessary for committing dacoity.
5.	Property is taken by the offender. It is not delivered.	Property is delivered by the victim to the offender.	Property is taken or it is delivered.	Property is taken or it is delivered.
6.	Presence of the victim is not necessary.	Presence of the victim is not necessary.	Presence of the victim or some other person is necessary.	Presence of the victim or some other person is necessary.
7.	Hurt is not caused.	Hurt is not caused.	Hurt is caused or attempt is made or at least fear or instant hurt is created.	Hurt is caused or attempt is made or at least fear of instant hurt is created.
8.	Punishment is 3 years.	Punishment is 3 years.	Punishment is 10 years.	Punishment is life imprisonment.

Criminal Misappropriation of Property : (Ss.403 & 404).

Definition and punishment (S.403) –

"Whoever,

- i) dishonestly misappropriates or converts to his own use
 - ii) any movable property,
- shall be punished with imprisonment of either description for a term which may extend to 2 years, or with fine, or with both".

Criminal Breach of Trust (Ss.405 & 406):

Definition (S.405):

"Whoever,

- i) being in any manner entrusted with property, or with any dominion over property,
- ii) dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do,
commits "criminal breach of trust".

Illustrations –

- a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.
- b) A is a warehouse-keeper. Z going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of stipulated sum for warehouse-room. A dishonestly sells the goods. A has committed criminal breach of trust.
- c) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.
- d) But, if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss yet A, not having acted dishonestly, has not committed a criminal breach of trust.
- e) A, a revenue officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.
- f) A, a carrier, is entrusted by Z with property to be carried by land or water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Ingredients:

- 1) The person must have been entrusted with property.
- 2) The person so entrusted with property must have –
 - a) dishonestly misappropriated or converted to his own use that property; or
 - b) dishonestly used that property; or
 - c) dishonestly disposed off that property in violation of direction of law or any legal contract;
 - or
 - d) wilfully allowed other person to misappropriate or convert or use and disposes that property which is entrusted to him in violation of direction of law or legal contract.

Punishment (S.406):

Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Aggravated forms of Criminal Breach of Trust (S.407 to 409):

- 1) Criminal breach of trust by carrier or wharfinger or warehouse-keeper = Imprisonment upto 7 years and fine (S.407).
- 2) Criminal breach of trust by a clerk or servant = Imprisonment upto 7 years and fine (S.408).
- 3) Criminal breach of trust by public servant by banker, or by merchant, agent or by attorney (attorney is a person who is appointed to do something and has authority to do an act in the absence of another) = Imprisonment upto 7 years and fine (S.409).

Difference between Criminal Misappropriation of Property and Criminal Breach of Trust:

	Criminal Misappropriation	Criminal Breach of Trust
1.	Property comes into possession of the offender casually or innocently, but afterwards he misappropriates it.	The offender is lawfully entrusted with the property or has dominion over the property, but afterwards he dishonestly misappropriates it in breach of trust reposed in him.
2.	If a person in whose possession property comes, had returned the property to its true owner he would not have been guilty of this offence.	If a person who is entrusted with property had not committed a breach of such trust he would not have been held guilty of this offence.
3.	There is no contractual relation between the owner of the property and the offender.	There is a contractual relation or fiduciary relation between owner of the property and the offender, as a owner and a trustee.
4.	This offence is committed in respect of any movable property.	This offence is committed in respect of any property movable or immoveable.
5.	Criminal misappropriation can be committed by any person in whose possession property comes, casually or lawfully.	Criminal breach of trust is committed only by a particular person on whose possession property is entrusted lawfully.
6.	Every criminal misappropriation does not include criminal breach of trust.	In every criminal breach of trust there is a criminal misappropriation.
7.	This is a lesser type of offence than criminal breach of trust. Punishment is 2 years and fine S.403.	This is more serious offence than criminal misappropriation. Punishment is 3 years and fine S.406.

Receiving Stolen Property (S.410 to S.414):

Definition of 'Stolen Property' (S.410):

Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is designated as "stolen property".

Whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or outside India. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be a stolen property.

Punishment for Receiving Stolen Property (S.411):

"Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to 3 years, or with fine, or with both."

Important Points:

Mischief (S.425-426):

Definition (S.425):

"Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects injuriously, commits "mischief".

Illustrations –

- a) A, voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.
- b) A introduces water into an ice-house belonging to Z, and thus, causes the ice to melt, intending wrongful loss to Z, A has committed mischief.
- c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.
- d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.
- e) A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the under-writers. A has committed mischief.
- f) A causes a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.
- g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.
- h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

Ingredients:

- 1) Intention to cause or knowledge on the part of the offender that he is likely to cause wrongful loss or damage to the public or any person;

2) House Trespass:

Definition (S.442):

"Whoever commits criminal trespass by entering into, or remaining in any building, tent or vessel used as a human dwelling or any building used as place for worship, or as a place for the custody of property, is said to commit "house-trespass".

Ingredients:

- 1) A person must commit a criminal trespass.
- 2) Such criminal trespass must be committed in –
 - a) any building, tent or vessel used as a human dwelling or
 - b) any building used as a place of worship, or used as a place for the custody of property.

'Building'

Building includes any structure with walls and covered with roof or tiles and used as a living accommodation. Even a hurt is a building for the purposes of this offence.

'Entering into'

er or wrongdoer, and shall also be liable to fine.
extend to 7 years, and shall also be liable to fine.

3) Lurking House Trespass :

Definition – (S.443):

"Whoever commits house-trespass –

- i) Having taken precautions to conceal such house-trespass from some person,
- ii) Who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass,
is said to commit 'lurking house-trespass."

Punishment – (S.453):

Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to 2 years, and shall also be liable to fine.

Aggravated forms of lurking house trespass and their punishments:

- i) **S.454** – Lurking house-trespass or house-breaking inorder to commit offence punishable with imprisonment = Punishment upto 3 years and fine; And if the offence intended to be committed is theft = Punishment upto 10 years.
- ii) **S.455** – Lurking house-trespass or house-breaking with preparation to cause hurt, assault or wrongful restraint = punishment upto 10 years and fine.
- iii) **S.456** – Lurking house-trespass or house-breaking = Punishment upto 3 years and fine.

4) House breaking:

Definition (S.445):

"A person is said to commit "house-breaking" who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or being in the house or any part of it for the purpose of committing an offence or having committed an offence therein, he quits the house or any part of it in any of such six ways,

That is to say : -

First – If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly – If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance, or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly – If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly – If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly – If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly – If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or an abettor of the house-trespass".

Illustrations –

- a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.
- b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.
- c) A commits house-trespass by entering Z's house through a window. This is house-breaking.
- d) A commits house-trespass by entering Z's house through the door, having opened the door which was fastened. This is house-breaking.
- e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in door. This is house-breaking.
- f) A finds the key of Z's house-door, which Z had lost, and commits house-breaking by entering Z's house, having opened the door with that key. This is house-breaking.
- g) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

CHAPTER - XVI

"FORGERY"

(Ss.463 - 465)

Definition of 'forgery' (S.463) :

"Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery".

Making a false document (S.464) :

"A person is said to make a false document –

Firstly, – who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed, or at a time which he knows that it was not made, signed, sealed or executed; or

Secondly, – who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly, – who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practiced upon him, he does not know the contents of the document or the nature of the alteration.

Illustrations –

- a) A has a letter of credit upon B for Rs.10,000/- written by Z. A, in order to defraud B, adds a cipher to the 10,000/- and makes the sum 1,00,000/- intending that it may be believed by B that Z so wrote the letter. A has committed forgery.
- b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby, of obtaining from B the purchase money. A has committed forgery.
- c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of Rs.10,000. A commits forgery.
- d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorises B to fill up the cheque by inserting a sum not exceeding Rs.10,000 for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of Rs.20,000. B commits forgery.
- e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill. A is guilty of forgery.
- f) Z's will contains these words- "I direct that all my remaining property be equally divided between A, B & C". A, dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.
- g) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order" and thereby converts the special endorsement into a blank endorsement. B commits forgery.
- h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z,

CHAPTER – XX

“ATTEMPTS TO COMMIT OFFENCES” (S. 511)

Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment (S. 511):

“Whoever attempts to commit an offence punishable by this Code 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 an offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment for 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”.

Under Section 511 of this Code, if no express provision is made for –

- i) the attempt to commit an offence punishable with imprisonment for life or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence – the punishment may extend to one-half of the imprisonment for life;
- ii) the attempt to commit an offence punishable with imprisonment or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence – the punishment may extend to 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.

Illustration:

- 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 - XIX**"CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE"**
(Ss.503 & 506)**Criminal Intimidation :****Definition (S.503):**

"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 alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation".

Explanation – A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this Section.

Illustration:

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

Ingredients:

- 1) Threatening a person with any injury –
 - a) to his person, reputation or property; or
 - b) to the person, or reputation of any one in whom that person is interested.
- 2) The threat must be with intent –
 - a) to cause alarm to that person, or
 - b) to cause that person to do any act which he is not legally bound to do;
 - c) to cause that person to omit to do any act which he is legally entitled to do.

Punishment (S.506):

"Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to 2 years, or with fine, or with both; and if the threat be to cause death or grievous hurt, or to cause destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to 7 years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to 7 years, or with fine, or with both".

CHAPTER – XVIII

"DEFAMATION" (S.499-500)

Section 499 defines the offence of 'defamation' and Section 500 prescribes the punishment for this offence.

Definition of 'defamation' (S.499):

"Whoever by words, either spoken or intended to be read, or by signs or by visible representation, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person".

Explanation 1 – It may amount to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2 – It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3 – An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4 – No imputation is said to harm a persons reputation, unless that imputation directly or indirectly, in the estimation of others, lower the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, generally considered as disgraceful.

Illustrations:

- a) A says – "Z is an honest man; he never stole B's watch". intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it falls within one of the exceptions.
- b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.
- c) A draws a picture of Z running away with B's watch, intending it to be believed that Z did steal B's watch. This is defamation, unless it falls within one of the exceptions.

Exceptions to the offence of defamation :

First Exception –

Imputation of truth which public good requires to be made or published:

It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good, is the question of fact.

Second Exception –

Public conduct of public servants:

It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception –

Conduct of any person touching any public question:

It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question and respecting his character, so far as his character appears in that conduct, and no further.

But in the matter before the Supreme Court the Narendra Modi government had supported the colonial-era law on the grounds that it preserved the sanctity of marriage and served a public good. "Protecting marriage is the responsibility of the couple involved. If one of them fails, there is a civil remedy (divorce law – to file a suit for divorce) available to the other. Where is the question of 'public good' in a broken marriage?" – Justice Misra had asked during the hearings. Thus, the five judges were unanimous in striking down Section 497 of the Indian Penal Code dealing with the offence of adultery, holding it manifestly arbitrary, archaic and violative of the rights to equality and equal opportunity to women.

5) Taking or enticing away the wife of another man or detaining such woman with intent that she may have illicit intercourse with any person – S.498

or

Offence of criminal elopement:

Definition:

"Whoever, takes or entices away a woman, who is, and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to 2 years or with fine, or with both".

If Section 361 (kidnapping from lawful guardianship) or Section 366 (kidnapping, abducting or inducing a woman to compel her marriage) of the Penal Code fail to apply in respect of a married woman, this Section can be made applicable. The husband can institute prosecution for the offence of criminal elopement of his wife under this Section, because the husband who is entitled to the custody and control over his wife is deprived of his right.

Ingredients:

- 1) Taking or enticing away or concealing or detaining the wife of another man from that man or from any person (may be her parents) having the care of her on behalf of that man.
- 2) Such taking away etc. must be done with an intent that she may have illicit intercourse with any person (e.g. with intent to make her prostitute).
- 3) The person taking away must have the knowledge or reason to believe that the woman is the wife of another man.

6) Husband or relative of husband of a woman subjecting her to cruelty i.e. mental or physical cruelty with a view to coercing her to bring property or dowry.

or

Cruelty for dowry S.498-A:

Definition:

"Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to 3 years and shall also be liable to fine".

Explanation:

For the purpose of this Section, cruelty means-

- a) any wilful conduct which is of such nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

Committing offence of bigamy defined u/s. S.494 with concealment of former marriage from a person with whom such bigamous marriage is contracted (S.495):
 Whoever commits the offence defined in the preceding Section having concealed from the person whom the subsequent marriage is contracted, the fact of the former marriage shall be punished with imprisonment of either description for a term which may extend to 10 years, and shall also be liable to fine.
 This is an aggravated form of bigamous marriage defined u/s. 494.

3) Dishonestly or fraudulently going through the ceremony of marriage without lawful marriage.

or

Offence of Fraudulent or Mock marriage (S.496):

"Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to 7 years, and shall also be liable to fine".

Ingredients:

- 1) Dishonestly or fraudulently going through the ceremony of marriage;
- 2) The person (man or woman) going through such ceremony of marriage with another (woman or man) knows that he or she is not thereby lawfully married.

The difference between Sections 493, 494 & 496 :

1) U/s. 493, the offence is committed by a man only. But u/s.Ss.494 and 496, it can be committed by a man or woman also.

2) In S.493, a man creates an impression or belief in the minds of a woman by deceiving her that she is lawfully married to him, whereas, in reality she is not. He also induces her to cohabit with him or have a sexual intercourse with him in that belief.

But u/s. 496 there is no deception, no cohabitation and no sexual intercourses. U/s. 496 a person goes through a ceremony of marriage with dishonest or fraudulent intention (Fraudulent or Mock marriage), when he or she knows that by performing such ceremony he or she is not lawfully married.

3) U/s. 493, a man deceitfully induces a woman to believe that he is her husband e.g. when he commits sexual intercourse with her when she is sleeping or when it is in the total darkness i.e. there is no opportunity for her to identify him.

U/s. 494, a man or woman who is married intends to perform a genuine or valid marriage and genuinely or honestly goes through the ceremonies of marriage during the lifetime of another spouse.

U/s.496, a man or woman makes a show of marriage and dishonestly or fraudulently goes through the ceremonies of marriage, knowing fully that it is not a Legal marriage (or knows that it is a mock marriage).

4) Adultery (S.497):

Definition:

"Whoever has sexual intercourse with a person who is, and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment or either description for a term which may extend to 5 years, or with fine, or with both. In such case, the wife shall not be punishable as an abettor".

Ingredients:

- 1) Sexual intercourse by a married or unmarried man with a woman –
 - a) who is married or
 - b) man knows or he has reason to believe that she is the wife of another man;