

INDIAN PENAL CODE

Course Name – B.A.LL.B 4th Sem

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Concept Covered – Complete Notes on Crime - 1

INDIAN PENAL CODE

FOR REFERENCE

- 1. Gour** : **The Penal Law of India**
(4 vols.)
- 2. Kenny** : **Outlines of Criminal Law**
- 3. Ratanlal** : **The Indian Penal Code**
- 4. Cross and Derby** : **Cases, on Criminal Law**
- 5. Soonavala** : **The Supreme Court on
Criminal Law**

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INTRODUCTION

The Indian Penal Code is a Substantive law containing 511 sections. It was Lord Macaulay who moved the House of Commons in 1833 to codify the whole of Criminal Law in India. Lord Macaulay himself was appointed as the Chairman of the First Law Commission and this Commission submitted its draft code of I.P.C. to the Governor General in 1837. This was circulated to Judges and Law Advisers. It was revised by another Commission and was passed by the 'Legislative Council' in 1860. The Criminal Procedure Code was passed in 1860 (Amended in 1973). These two together constitute 'Criminal Law' of India.

This codification of both the substantive and adjectival (Procedural) Criminal law brought uniformity and definiteness to the Criminal jurisprudence in India.

Definition of offences, containing many **ingredients** must be remembered with abundant caution. Even if one ingredient is slipped, it will not amount to an offense. In Sn. 378 I P C theft has five essentials. If one, say "without consent" is omitted, the definition suffers from this infirmity and there will be no theft at all. Further, the illustrations play a dominant role and should be studied again and again to comprehend the essentials of the offences.

'**Mens rea**' which is the subject of great discussion in England, is much simplified by the I.P.C. The mental element is stated in each offense as 'dishonestly', 'Fraudulently', 'intentionally' etc. Hence, the legal maxim 'Actus non facit reum, nisi mens sit rea' is hardly applicable in India.

The subject is heavy but is worth its weight in gold.

1. P. C. "SYLLABUS"

1. Definitions : (a) Judge (b) Public servant (c) Wrongful gain or loss (d) Dishonestly (e) Fraudulently (f) Counter feit (g) Valuable security (h) 'Act' "Omission" (i) Common intention (j) Voluntarily (k) Good faith (l) Harbour (m) Document

2. Punishment (Sns. 53 to 75) Solitary confinement (Sn. 73)

3. General exceptions (Sns. 76 to 95)

4. Private defence (Sns. 96 to 106)

5. Abatement (Sns. 107 to 120)

6. Criminal conspiracy

7. Sedition, Harboursing deserter

8. Unlawful assembly, rioting, affray

9. Illegal gratification, bribery, obstructing public servant

10. Giving false evidence, fabricating false evidence, harbouring offender, public nuisance.

11. Culpable homicide, murder, thug

12. Hurt, grievous hurt, wrongful restraint, wrongful confinement

13. Force, criminal force, assault, kidnapping, abduction, rape

14. Theft, extortion, robbery

15. Criminal misappropriation, criminal breach of trust, stolen property and receiving stolen property.

16. Cheating, mischief

17. Criminal trespass, house trespass, lurking house trespass, house breaking

18. Forgery. Making false document, trade mark

19. Bigamy, adultery

20. Defamation Sn. 499.

21. Criminal intimidation (Sn. 503)

22. Inchoate offences (Sn. 511)

QUESTIONS BANK [I. P. C]

1. Write an essay on 'Actus non facit reum, nisi mens sit rea, Explain the position under I.P.C.
2. Define with illustrations : (a) Wrongful gain and wrongful loss (b) Dishonestly, fraudulently (c) Counterfeit (d) Valuable security (e) 'Act', Omission (f). Voluntarily (g) Good faith,
3. Discuss the ambits of private defence.
4. a) What is abetment ? Who is an abettor ? Illustrate,
b) Explain the ingredients of criminal conspiracy and sedition.
5. Define and distinguish 'giving false evidence' from 'fabricating false evidence'.
6. Distinguish between culpable homicide and murder. OR when is culpable homicide murder ? Illustrate.
7. What are the ingredients of theft ? Illustrate your answer.
8. Define and distinguish criminal misappropriation from criminal breach of trust.
9. What is Hurt ? When does it become grievous ? Illustrate.
10. What is Kidnapping? Explain its ingredients. Write a note • on abduction.
11. State and explain the ingredients of extortion. Explain when theft amounts to robbery and when extortion amounts to robbery. Illustrate.
12. What essentials constitute 'cheating'. Illustrate
13. Explain criminal trespass, house trespass and house-breaking.
14. What is defamation ? Explain its ingredients. Explain any four exceptions provided for in the I.P.C.
15. Distinguish between:
 - a) Wrongful restraint and Wrongful confinement
 - b) Assault and criminal force
16. Write short notes on :
 - (a) Mistake of law and of fact (b) Unlawful assembly (c) Affray (d) Illegal gratification (e) Public nuisance (f) Thug (g) Dacoity (h) Receiving stolen property (i) Mischief (j) Forgery (k) Bigamy (l) Criminal intimidation (m) Inchoate offense (n) Intoxication as defense (o) Act done in good faith (p) Harboring offender.

CHAPTER 1

DEFINITIONS

Ch. 1-1..Judge: Sn. 19.

Judge denotes every person who is officially designated as a Judge. It also includes a person or a body of persons empowered to give definitive judgments in any legal proceeding. The test is that such a person or body should have the right to give judgment.

Eg. (i) A Magistrate who commits a person to the sessions is not a 'judge' in that circumstance.

(ii) A Magistrate conducting a summons-case is a judge.

The definition is only inclusive and not exhaustive. Legislature may empower a sarpanch or panch under the Panchayat to act as a judge.

An arbitrator is not a judge, as he cannot give a definitive judgment.

Ch. 1-2. Wrongful gain and Wrongful loss : Sn. 23.

Wrongful gain is the gain of property made by unlawful means. The test is that such a person is '**not legally**' entitled to such property.

Wrongful loss is the loss of property incurred by **unlawful means**.

The test is that such a person, so losing is legally entitled to such property.

E.g. : Husband H had taken loan from C. When H died, C forcibly and illegally seized the bullocks of the widow of H. This is in satisfaction of the debt. C makes a wrongful gain but W has wrongful loss.

Wrongful gain is only an ingredient of an offence and therefore it is part of an offence. E.g. Theft, Sn. 378. But In Mischief, [Sn. 425] there is wrongful loss, no wrongful gain.

Ch. 1-3. Dishonestly, Fraudulently: Sns. 24 & 25.

If a person does an act with the intention of causing wrongful gain to one person or wrongful loss to another he is doing that act dishonestly.

If a person does a fraudulent act with intention to defraud, he

is said to have done the act fraudulently.

The intention of the person is important.

Ex : In theft Sn. 378, there is no fraud but there is the intention to cause wrongful loss or wrongful gain.

. Under Sn. 411, receiving stolen property, the person is punishable if he dishonestly received property. In Cheating Sn. 415 there may be a fraudulent or dishonest intention. In forgery, Sn. 463 there is the fraudulent intention or intention to commit fraud.

Defraud has two elements (i) Deception and (ii) Injury to the person deceived. The difference between fraudulently and dishonestly is that in 'Dishonestly' there will be no intention to defraud. But in 'fraudulently' fraud is an essential ingredient.

Dr. Vimala V. Delhi Administration, the Accused had bought a car in her minor daughter's name & had made claims by signing minor's name. Held, deceit but no injury. Hence, not liable under Sn. 467 (Forgery.)

Ch. 1-4. Valuable security: Sn.30.

It is a document or one which purports to be a document. It creates, transfers, restricts, extends or extinguishes a legal right of a person. An acknowledgement of legal liability under a document is a valuable security.

E.g. : Promote, Bill of exchange. Cheque, sale deed, mortgage or lease deed. A endorses a cheque in favour of B. The endorsement is a valuable security.

Further "Under purports to be a document", unstamped or blank documents or incomplete documents to be filled up later are valuable security A deed of divorce is a valuable security.

Account books are not valuable security.

Ch. 1-5. Voluntarily: Sn. 39.

A person is said to do an act voluntarily when he intends to cause an effect or at the time of employing those means he knows or has reason to believe that he is likely to cause it. This, is defined, taking the relation of the causation and effects. Therefore it differs from the ordinary meaning. The result is that if a person does an act voluntarily, he is deemed to have known the consequences as well.

E.g. A sets fire to the house of B, to commit robbery but causes the death B. A had not intended to cause the death of B, but if, he knows that by setting fire to the house, it was likely that B would be killed, he has "caused death voluntarily".

Ch. 1-6. Act, Omission : Sn. 33.

The word act denotes a series of acts or a single act. The word omission includes a series of omissions, including a single omission.

These words are not defined in the I.P.C. but are used in the definition of offences.

(i) Culpable homicide is murder if the act by which the death caused is done with the intention of causing death (Sn. 300 murder).

A person is guilty of an illegal omission when that causes common injury (Public nuisance Sn. 268).

Ch. 1-7. Good faith: Sn. 52.

Nothing is said to be done or believed, in good faith, which is done or believed, without due care and attention. The belief must be reasonable and well founded.

The expression "good faith" is used in many sections of the I.P.C. Sn. 76, 79, 77, 78, 300, 339, etc.

A quack conducted an operation for piles with an ordinary knife but the patient died. The plea of good faith was rejected by the court (Kaviraj's case).

When a villager, returning home late in the night found near the entrance of his village, a devil, he hit hard on its head. In reality he had killed a child. The place was known for devils according to the villagers. The plea of good faith was rejected by the court.

: The person must act honestly. This means he must act with fairness and uprightness. This is judged on the facts and circumstances of each case. There is no good faith if a person acts negligently or with lack of fairness. .

A Sub-inspector saw a horse tied by B, and arrested B. He had jumped to the conclusion that the horse was the one his father had lost a few days ago. In reality, it was not the same horse. Held, that the officer had acted without "good faith" in arresting B.

Ch. 1-8. Harbour : Sn. 52 A.

Harbour according to I.P.C includes supplying a person with shelter, food, drink, money, clothes, ammunition and means of conveyance or any means to evade apprehension.

There is one exception to this. It is no harbour for the wife or the husband to give shelter, food, etc., to the other spouse. Harboring deserter (Sn. 136) is an offense. A deserter from the Army, Navy, or Air Force may obtain the help of another to

conceal himself. A person who knowingly harbours him is guilty of this offence.

In harbouring offender (Sn. 212) a person who harbours, knowingly an offender is guilty of the offence.

Ch. 1.9. Counterfeit: Sn. 28

: A person is said to counterfeit, when he causes one thing to resemble another thing with an intention to cause deception or with the knowledge that deception is thereby practised. The imitation need not be exactly the same..

There is a presumption that when a person causes one thing to resemble another he has the intention to practice deception but this is a rebuttable presumption.

Counterfeiting coin is an offence and is punishable under Sn.231

Ch. 1-10. Common intention: Sn. 34.

When a criminal act is done by several persons, in furtherance of the common intention of all, then each person is liable for that act in the same manner as if it were done by him alone.

The gist of this definition is that there is a joint liability, in the doing of the criminal offence. This liability is based on the existence of a "common intention".

For this, there must be prior consent or prearranged plan. There must be a prior meeting of minds. Several persons may attack 'A' each with an intention to kill A, but this is not common intention as there is no "meeting of minds". In such a case each is liable for whatever injury he has caused.

The leading case is **Krishna Govind Vs. State of Maharashtra**. This section is only a rule of evidence, and does not create any offence.

Sn. 34. read with Sn. 302

In *Bahu! Singh V. Emperor*, it was held that there must be a pre-arranged plan- a meeting of minds. to convict both the accused. In this case, Mala Singh had given one blow to the deceased Dala Singh, but Bahu! was responsible for killing.

There was no plan or meeting of minds to make them both liable for murder. Held Mala Singh was liable for causing grievous hurt.

In *Ishwari V. state*, two brothers A & B had attacked D and killed him at the dead hour of the night at D's residence. A had attacked with a sharp weapon, & B had attacked with lathi. Held there was common intention.

Ch. 1-11. Document : Sn. 29.

It denotes any matter expressed or described on any substance, by means of letters, figures or marks intended to be used as "evidence".

A cheque, a power of attorney, all agreements, a map or a plan to be used as evidence, are documents.

A currency note is a "document".

A printed wedding invitation is a document.

In using any letters, figures or marks, the same meaning that is in usage or in mercantile transactions is to be given. A endorses a B/E payable to P. The bill as per mercantile usage means payable to P or to his order.

Ch. 1-12. Offence : Sn. 40.

"Offence", according to the I.P.C. denotes a thing punishable under this code, or under any special or local law.

The "thing" is comprehensive and includes the doer or the dead, or the subject or the object. It includes the acts or omissions made liable under the code.

Though mens rea is part of the offence, the I.P.C. has specified the nature of the intention in the definitions of the various offences: Using "voluntarily" "dishonestly" fraudulently etc

. Hence, the English rule Actus non facit reum. nisi mens sit rea is not applicable in India.

The nature of the intention of the act to be established is defined in the various sections of the I.P.C.

[For English Law Refer MSR ebook Kenny's Criminal Law]

CHAPTER -2

GENERAL EXCEPTIONS

Ch. 2-1. Mistake of law and mistake of fact : Sns. 76 and 79.

One of the cardinal rules of criminal law is

ignorantia facti excusat,

ignorantia juris non excusat (Ignorance of fact is an excuse but not Ignorance of law). This rule is contained in Sns. 76 and 79.

According to Sn. 76, a person who believes himself to be bound by law, is excused if he does an act under mistake of fact but not under mistake of law. '

E.g. (i) 'A' a soldier fires on a mob by the orders of the Superior officers as per law. A is not guilty.

(ii) A, a police officer, arrests Z, believing, in **good faith** that he is the person required. He is not guilty.

'Mistake' is a slip made not by design but by **mischance**. It is an error that results from unintentional act or omission. Hence, mistake of fact is considered a good defence.

The leading cases are :

1. R.V. Tolson
2. R.V. Prince

In **R.V. Tolson, Mrs. Tolson** was charged with Bigamy as she had married her a second husband. Her defense was that Mr. Tolson, her first husband could not be traced for over seven years despite all reasonable means to search adopted. There was not mens rea. Hence, it was held that she was not guilty. '**Mistake of the fact is an excuse**' the court declared.

In **R.V. Prince**, the accused was charged with kidnaping, Annie Phillips, a girl under 16 years of age. The plea of the accused that the girl looked to be above 16, was rejected by the court and he was held guilty. His reasonable belief as to her age was no legal defence.

According to Sn. 79, an act done by a person, who believes himself to be justified by law is excused. However, ignorance of law is no excuse but mistake of fact in good faith is an excuse.

(i) A, a police officer sees Z commit an offence which appears to be murder. A, in good faith, exercising his powers under Cr. P.C. arrests Z. It turns out that there was no murder. Held,, Z not guilty as

he is justified by law.

(ii) A. a police constable, saw B carrying, three pieces of cloth, suspected them to be stolen and questioned him. B gave no satisfactory answers". Hence, he arrested him, but the Inspector released him. B prosecuted the constable for wrongful confinement. Held, constable not guilty. There was a mistake of fact.- Constable was justified by law to enquire B.

In **Chirangi V. State**, accused in "delusion" took his son as tiger and killed him.. He was protected under Sn. 79.

In **State of Orissa V. Ram Bahadur**, killing a person as ghost was excused in the set of circumstances of the case

Ch. 2-2. Drunkenness or Intoxication: Sn. 85.

One of the rules contained in the general exceptions of the I.P.C. is that intoxication is a good defence only in a particular circumstance, i.e., when it is not voluntary.

Sn. 85 provides that it would be no offense, if the accused at the time of doing it was, by reason of intoxication (i) incapable of knowing the nature of the act or (ii) that what he was doing was either wrong or contrary to law.

The essential condition for excuse is that the thing which caused intoxication must have been administered to him without his knowledge or against his will.

Drunkenness is a species of madness for which the madman alone is to be blamed.

Case : Director of Public Prosecution V. Beard.

In this case the accused ravished a girl of 13 years of age and in committing rape he placed his hand on her mouth and his thumb on her throat. The girl died due to suffocation. The plea of drunkenness was rejected. Held, **guilty of murder** .

Drunkenness in generally not a defence.

The Supreme Court in **Vasudev V. State of Persu** has laid down conditions. Accused, drunk heavily in a wedding party killed a boy. Held, he was not so much obscured by drink. Held **guilty**

Ch. *2-3. "Act done in good faith" :

The I.P.C. in the general exceptions Sns. 89, 89, 92 and 93 has provided for certain classes of cases, where there would be no offence, if the "act is done in good faith". This gives protection to the

medical profession in particular and to others in general.

(i) If A causes any harm to B, without any intention to cause death, but in good faith, he is not guilty, if B has given his consent to take the harm or the risk (Sn. 88).

E.g. A, surgeon conducts an operation on B (who was suffering from acute stomach pain) with his consent and in good faith to save him. B dies. A has committed no offence. (Sn. 89).

(ii) If A, causes any harm in good faith to B, who is under 12 years of age, or of unsound mind with the consent of the guardian, for the benefit of B. A has committed no offence. (Sn. 89).

A, a surgeon conducts an operation on B, a child of 10 years in good faith to save the child, with the consent of B's father, but the child dies. A has committed no offence.

(iii) If A causes any harm to B, in good faith for the benefit of B, under such circumstances that consent could not be taken, then, A has committed no offence.

E.g. (a) A, a surgeon sees a child involved in an accident and conducts an emergency operation. There was no time to seek the parents consent.

If the child dies, the surgeon has committed no offence

b) A is carried off by a tiger. B shoots at the tiger in good faith to save A, but kills A. B is saved under this section.

(iv) Any communication made in good faith to a person to benefit him is not an offence, if any harm results from it.

A. surgeon in good faith tells B. his patient, that in his opinion B would not survive, B dies out of shock. If A, has said this for the benefit of B. A has committed no offence.

Ch. 2.4 The Right of Private defence : (Sns. 96 to 106) :

One of the fundamental principles of law is that every individual has a right to defend himself and his property.

This is the doctrine of self-defence or self-preservation. Sns. 96 to 106 have recognised this rule and have provided for the limits within which it may be exercised. This may be discussed under two heads: i) Right of person (ii) Right of property.

ii) Right of person :

(i) Every person has a right to defend his own body and the body of any other person against any person. Sn 97

ii) Against a madman etc: The right extends in all circumstances against any person who is insane, drunk or who by

reason of youth immaturity is excused under law[Sn 98 I P C]

Z under madness attempts to kill A. A may defend and even kill Z if circumstances so warrant.

(iii) Extension of the right: Sn. 100 provides as follows :

A person who is under a reasonable apprehension that his life is in danger, may to defend himself, voluntarily cause the death of the assailant if:

a) The assault done by him i .e, assailant causes reasonable apprehension of 1) death or 2) grievous hurt.

b) Or has assaulted with an intention to commit.-

i) The offence of rape

ii) The offence of unnatural lust

iii) Kidnapping or abduction or

iv) Wrongful confinement, in such circumstances that the defender could not have recourse to public authorities to claim protection.

This section empowers n person to defend himself by inflicting injury **not greater than what is reasonably necessary**. The injury caused in defending must be proportional to and commensurate with the **injury received**. This is the test.

(v) Only in the above circumstances, the right extends to causing death as recourse. But, in all other circumstances, the right extends to causing any injury other than causing death. (Sn. 101).

In R.V. Rose, H was cutting the throat of his wife, W. Their son saw this and fired at H. H died in consequence. Held, accused is within the limits of private defence. Hence, not guilty.

In Shaku V Crown, H used force to take away his wife W by force from her father's house. W inflicted injuries to H. H died. Held under the circumstances, W was within her right of defence.

iv) **Duration** : Sn. 102 the right of private defence commences as soon as there is a reasonable fear of danger to the body and continues as long as such fear continues. In *Deo Narain V. St. of U. P.* the Supreme Court has laid down the meaning of "Duration".

Exception :

(i) There is no right of private defence against a public servant,

if he acts in good faith, under colour of his office, though that act may not be strictly according to law. However, if this act causes fear of instant death of grievous hurt, there is a right of private defence

. There could have been no recourse to any public authorities.
No more harm than is necessary to defend, may be inflicted.(Sn. 99)

ii) There is no right of self-defence if the public servant states the authority under which he is acting or produces (Warrant etc.) the same when demanded.

Leading cases i) St. of U. P. V. Ram swamp ii)

Kishan V, St. of .M.P iii) Munshi Ram V. Delhi

Private defence of property :

i) Every person has a right to defend his property, moveable or immovable. It may be his own or any person's property. The act of the offender must amount to theft, robbery, mischief, criminal trespass or attempt thereof (Sn. 98).

ii), Extent: The right extends to cause death or any other harm to the offender in the following cases:

a) House-breaking by night.

b) Mischief by fire on any building or vessel.

c) Theft, mischief or house-trespass with a fear that the offender would cause death or grievous hurt, if not defended. This is the test adopted (Sn. 103).

iii) **Duration** : Sn. 105 The right of private defence commences when there is a reasonable apprehension of danger to property and continues as long as that danger continues.

The danger may be due to theft, criminal trespass, mischief or robbery, or house-breaking by night.

Cases : (a) In **R.V. Halloway**

: S, the servant of M, saw a boy B, stealing wood. He tied the boy to a horse's tail and beat him. The horse took fright and B died. Held, no private defense, but a case of murder by S.

b) In R.V. Karim Bux,

K saw a thief A, entering the house at night through an aperture in the side-wall. K held down the head of A to prevent him from further entering. A died of suffocation.

Held, K not guilty.

CHAPTER -3

ABETMENT

Ch. 3-1. Abetment : Sn. 107.

A person abets the doing of a thing if he

- 1) instigates another to do that thing, or
- 2) conspires with others in the doing of the act or
- 3) intentionally aids the doing of that thing

E.g. A, a police officer, with a Warrant is empowered to arrest Z. B who knew this, instigated A to arrest C who he mis-represented as Z. A arrests C. B abets.

General advice is not abetment.

Instigation means the instigator actively suggests, or stimulates by any means i.e., by words, hints, encouragement etc.

Abetment by conspiracy:

For this there should be at least two persons, engaged in commission of an act in pursuance of conspiracy and there should be the doing of the thing.

Abetment by aid: The person aids to facilitate commission of an offence. It should be intentional aid. E.g. supplying of food to facilitate an offence. A police man A, who stands and does nothing to prevent torture of B by C, is guilty of abetment by omission i. e, non interference.

Ch. 3-2. Abettor : Sn. 108.

An abettor is a person who abets.

- i) Either the commission of the offence or
- ii) The commission of an act which would be an offence if done by a person capable by law of committing the offence with intention or knowledge of that of the abettor

Scope :-

- 1) Abetment of an illegal omission amounts of an offence
- 2) Abetted act need not be committed, to constitute an offence
 - a) A abets B to murder C. B refuses to do so. A is guilty of abetting B to murder.
 - b) A instigates B to murder D. B thereupon stabs D. But, D

recovers. A is guilty of instigating B to murder.

iii) The abetment of an offence is an offence. Hence, an abetment of such an abetment is also an offence.

A instigates C to murder D. B accordingly instigates C who commits murder of D.

B is guilty and punishable under 302 I.P.C. A has instigated. Hence, A is also liable for the same punishment.

It is not necessary that the person abetted should be capable of committing a crime. A child, a lunatic etc. may be used by the abettor to do the crime. In such cases, the abettor is guilty of the offence committed through the child, lunatic etc.

'A with guilty intention abets a child of 5 years to set fire to a house, of B. B, is grievously hurt. A is liable.

Ch. 3-3. Criminal Conspiracy : Sn. 120 A and B.

It is an agreement by two or more persons to do an illegal act or to do any legal act by illegal means.

But when the agreement contemplates the commission of the offence, and some act is done by one or more persons, then the offence is completed.

It is immaterial whether the illegal act is the ultimate object or incidental thereto.

This section was introduced in 1913. The gist of the offence is that the agreement must be to break the law whether or not any act is done in pursuance thereof. An agreement to commit the offence, makes criminal conspiracy completed. But, if the agreement is to do a legal act by illegal means, there must be some act done by one or more persons, to the conspiracy, e.g., Recovery of a debt by illegal use of force or assault.

In Hussain umar V. Dalip Singh the Supreme Court held that agreement was essential and there should be a common design & a common intention in furtherance of the common design. All need not agree on a single illegal act. There may be the commission of a number of acts.

If conspirators commit several offences, all of them will be liable even if some of them had not participated in the commission of the offence.

Criminal conspiracy is an independent offence punishable under Sn. 120 B of the I. P. C. (6 months, fine or both).

Ch. 3-4 Sedition : Sn. 124 A.

Sedition is an offence punishable under 124 A.

A person who by words, (spoken or written), by signs or by visible representation brings or attempt to bring hatred or contempt or excites disaffection towards the Government of India, is guilty of sedition. He is punishable with imprisonment which may extend to three years, or fine or both.

The explanation states that disaffection includes disloyalty and ill feelings of enmity.

Mere criticism of Government or its measures or the administrative bodies or seeking alteration of lawful means is not sedition.

The leading cases are ;

R.V. Bala Gangadhar Tilak

R.V. Sadasiva Narayan

R.V. Dhirendranath Sen

Jogendra Chandra Bose

Criticism of the Government or its measure is part of democratic institutions. But, what constitutes sedition is the **Animus** of the person with the words, calculated to bring the popular Government to **hatred or contempt**.

Everything should be decided according to the time and place of the commission of the act. **Publication is of course an essential ingredient.**

The section is not against the freedom of speech and expression guaranteed under Art. 19 (1) (a) of the Constitution.

The words excite disaffection, includes the tendering or intention to create disorder or disturbance of public peace by resort to violence. **Kedarnath V. State of Bihar.**

Hence, according to Supreme Court, what is punishable under Sn. 124 A, is therefore not a criticism **of** the Govt. in power, but utterances which either intend or have a tendency to subvert the existing Govt. by means of violence.

CHAPTER -4

UNLAWFUL ASSEMBLY, RIOT

Ch. 4-1. Unlawful Assembly : Sn. 141.

. Unlawful assembly is an assembly of five or more persons with the common object:

- i) to over-throw by criminal force the Government or the legislature or
- ii) To resist the execution of any legal process
- iii) To commit mischief (S. 425), criminal trespass (441)
- iv) To obtain property or right by criminal force or
- v) To criminally force a person to do an act which he is not bound to do, or to force him not to do an act which he is bound to do.

If a person is a member of an unlawful assembly then that person is punishable. An assembly which is not unlawful in the beginning may become unlawful subsequently. The purpose or common object decides the nature of the assembly.

The essentials are that there should be five or more persons and there should be the common object as specified in Sn. 141. This is different from common intention in Sn. 34. For unlawful assembly prior meeting of minds is not essential.

To be called a "member" of the unlawful assembly the person must have joined knowing the facts, intentionally or continued in it.

The punishment for being a member is 6 months imprisonment, fine or both.

Aggravated forms are instances of persons armed with deadly weapons joining the unlawful assembly Sn. 144

In **Chikkarange Gowda V State of Mysore**, the Supreme Court laid down the essentials of unlawful assembly. There should be the minimum of five members & they should have the common object of Sn. 141. The members should know that they are likely to commit an offence, in furtherance of the common object. The prosecution should prove the presence or participation of the member in the unlawful assembly.

Ch. 4-2. Riot: (Sn. 146)

This means if an unlawful assembly or a member thereof, in pursuance of common object, uses force or violence, then every member is guilty of Rioting, (unlawful assembly +force = Riot)

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Ch. 4-3. Affray : (Sn. 159)

If 2 or more persons, fight in a public place, disturb public peace, they are guilty of affray. The punishment is imprisonment for one month or fine up to Rs.100/- or both.

Affray means to terrify i.e., it creates a terror to the public.

Actual fighting is necessary. Mere quarrel with some words or threatening words will not amount to affray. There must be physical

exchange of blows. Fighting at public taps, or public urinals are examples. **The place must be a public place.**

In Jagannath's case, two brothers were quarreling on a public road using abusive language. A large crowd gathered and the traffic was jammed.

Held, no affray as there was no "fighting" by the brothers.

Fight is a bilateral act and fighting by both parties is essential.

In Ellappa V Ellappa, a washerman was beaten, in public place, **but there** was submission by washerman. He was crying but was not fighting back. Held, there was no fight, hence, no affray. It was only an assault.

Affray is different from Riot. For affray there should be **two** or more persons.. For rioting there should be **five** or more persons.

Riot may be in a private place, but affray should be in public place

CHAPTER -5 FALSE EVIDENCE

Ch. 5-1. Giving false evidence : (Sn. 191)

According to Sn. 191 'giving false evidence' is an offence punishable under Indian Penal Code.

In English Law according to Kenny this is perjury.

If a person in a judicial proceeding, before a competent court, gives false evidence or evidence which he knows to be false he is guilty of perjury. But, he must have stated this under oath and on matters material to the trial.

Sn. 191, defines giving false evidence. Here the accused must be legally bound by an oath to state the truth or to make a declaration. He must make a false statement and must know that it is false or that it is not true. The statement may be made either orally or in writing. It amounts to false evidence,

- (i) if a person says that he believes a thing which he does not believe
- (ii) if he states that he knows a thing which he does not believe, or
- (iii) if he states that he knows a thing which he does not know. *Ranjit Singh V. State of Pepsu* :

The facts were that the accused Police Officer filed an affidavit, stating that Ranjit was never arrested and illegally detailed in custody. The Supreme court held that as his statements were found to be false the accused had committed an offence under this section.

Eg. i) A, under an oath stated that he believes that a signature to be in the handwriting of Z, knowing fully well that it is not so. This is false evidence.

ii) A, under an oath tells the court that Z was not present at a particular place on a particular day. He knows that this is not true. This is false evidence.

Hi) A, under an oath, translates a statement knowing that the translation was false.

Making false affidavit, amounts to giving false evidence. Sn. 193 provides for punishment.

Ch. 5-2, Fabricating false evidence : Sn. 192.

This is an offence under I.P.C. The essentials are three:

- i) The accused must cause a circumstance to exist, or make a

false entry in any book or record or make any false document.

ii) He must do so with the intention that it may appear in evidence in any court or tribunal.

iii) The intention must be that the circumstance may cause an erroneous (bad) opinion in the proceedings.

E.g.: i) A puts jewels into Z's box with an intention that Z may be convicted of the offence of theft. A has fabricated false evidence.

ii) A makes a false entry in his shop book for the purpose of using it in a criminal case.

The leading cases :

i) **Rameswar Rai V. State** : Here A the accused had stolen railway pins and kept in the house of Z. Z was punished for theft. A was held guilty

ii) **Dutt V. State of U. P.** : Here the accused was an expert witness. He had fabricated a London Diploma Certificate to show he was an expert. Held guilty

iii) **Umrao V. State**: The witness had made two contradictory statements intentionally it was held he was guilty of giving false evidence.

CHAPTER -6

CULPABLE HOMICIDE AND MURDER

Ch. 6-1. Definition and Differences:

Section 299 deals with Culpable homicide. (Homicide means killing of man. Culpable means punishable). Killing of a person. punishable in nature, is culpable homicide.

Sn. 300 deals with murder :

Culpable homicide

Murder

- | | |
|---|---|
| (i) Causing death: | (i) Killing another person: |
| a) with the intention of causing death, or | a) with the intention of causing death, or |
| b) With the intention of causing such bodily injury as is <i>likely</i> to cause death or,
With the knowledge that the act is likely to cause death. | b) With the intention of causing such bodily injury which the offender knows to be likely to cause death or
c) With the intention of causing such bodily injury as is sufficient in the ordinary course of nature to cause death, or
d) With the knowledge that the act is so imminently dangerous that it must in all probability cause death. |

Examples:

- | | |
|--|--|
| A keeps sticks and turf over a pit with an intention to cause the death of Z. Z walks over it falls into the pit and dies. | i) A with an intention to kill Z shoots at Z several times from close quarters. Z dies. This is murder. Godse shot at Gandhiji six times Nahavathi kills Ahuja |
| b | |
- . (ii) Z is suffering from a spleen
- | | |
|---|--|
| disease. A does not know, from an acute spleen He hits Z. Z dies in consequence. This is culpable homicide. | ii) A knows that Z is suffering disease. He hits Z on the stomach, Z dies. This is murder, |
|---|--|
- (iii) Z is hiding behind a bush. A hears a sound, thinks that sword cut to Z, Z dies. there is a wild animal, and not knowing that Z is there shoots at the bush, Z dies. This is C.H.
- | | |
|--|---|
| | iii) A intentionally gives a deep This is murder. |
|--|---|
- | | |
|--|---|
| | iv) A intentional shoots at the mob with an intention to kill Z. The shot hits B, who dies. This is murder. |
|--|---|

Justice Melwell in Govinda's case

held that if death is the likely result it is culpable homicide. But if death is most likely or certain it amounts to murder. Hence in culpable homicide, death is the probable result but in murder, it is the most probable result.

The leading cases are :

- i) R.V. Gorachand Gopi
- ii) Rajwant Singh V State of Kerala
- iii) R.V. Govinda
- iv) R .V. Beg
- vi) Harinder singhV Delhi
- v) Vjra Singh's case

i) R.V. Gorachand Gopi:

The accused struck his wife a blow on her head with a ploughshare. She fell down. The accused thought that she was dead. He hanged her with a rope to create an impression that she has committed suicide. In fact, she died due to strangulation. He was tried for murder. The court made a distinction between culpable homicide and murder. Held accused was not guilty of murder or culpable homicide but was guilty of grievous hurt.

ii) R.V. Govinda:

The accused knocked down his wife, and put his knee on her chest and dealt on her face with two or three violent blows with his fist and in consequence she died. Mehvell J made a distinction between culpable homicide and murder, and held, the accused was guilty of culpable homicide not amounting to murder.

In Vira singh's case,

the accused had pierced a spear with such force that 3 coils of abdomen of D had come out. Held murder under "thirdly" in Sn 300. See Sn 300

In **Harinder singh's case** the accused had knifed D who had come to rescue his brother B. D died. Held culpable Homicide.

Ch. 6-2. Culpable homicide is not murder in the following five circumstances:

1. Culpable homicide is not murder, if the offender being deprived of his self control by **grave and sudden provocation** causes the death of that person, or any other person by mistake or accident.

Ex : A, under grave and sudden provocation given by Z kills Z's child intentionally. This is murder and not culpable homicide.

Exception :

a) The provocation should not have been made voluntarily by the accused himself. If he does so it will be murder.

b) It is not a provocation if it is caused to the accused as a result of a **public servant** exercising lawful powers over the accused.

Ex.: A is arrested by P. a Police Officer. This excited A to grave provocation and kills P. This is murder and not culpable homicide.

c) The provocation is not given by anything done in private defense.

Ex : i) A, attempts to pull **Z's** nose. Z in private defence holds **A**. A, is moved to sudden passion and kills Z. This is murder.

ii) **Nanavathi case :**

N's wife admitted before N adultery, with one Ahuja. Then, N, went to his office took his revolver, went to Ahuja's house and killed him. Defense was 'grave and sudden provocation'. There was sufficient time between the provocation and the act of killing. The court held that this was murder and **not culpable homicide**.

iii) Balku's case :

A and B were sleeping together outside the house. Sometime in the night B got up, went inside the house and had illegal connection with A's wife. A saw this through an aperture. B returned and slept in his place. Thereupon A stabbed B several times and killed him. Held : Culpable homicide.

3. Culpable homicide is not murder if the offender being a public servant exceeds his legal power and causes death in good faith. The act must be lawful and necessary. There must be no malafide intention.

4. Culpable homicide is not murder if it is committed by a person without any premeditation but in sudden fight in the heat of passion and without taking undue advantage over the other person. This is culpable homicide and not murder.

Eg. **In Raju Ghosh case :**

There was a pitched quarrel and sudden fight between A and B. While fighting A chanced on a heavy piece of wood. He took it and hit hard B, B died. Held; this is culpable homicide and not murder.

5. Culpable homicide is not murder, when the deceased being above the age of eighteen, suffers death with his own consent.

Ex : A instigates Z below 18 commit suicide stating that life, was useless. A has abetted murder.

Other leading case for

when C.H is not murder

(i) Madhavan V. St. of Kerala

(ii) Akhtar V. State (iii) Chamru Budhwa V.

St. of M. P (iv) Jagrup V. St. of Haryana

(v) St. of M. P. V. Ram prasad.

Ch. 6-3. Thug : Sn. 310.

A person who is habitually associated with any other or others for the purpose of committing robbery or child stealing by means or associated with murder, is called a 'Thug'

. He is punishable with imprisonment for life and shall be liable to fine.

This is a case of 'Multiple crimes'. But, the essence of this offence is that the accused must be habitually associated with others, Murder is invariably there.

But this is associated with robbery or child stealing to constitute an offense of 'Thug'. **Thugs have become extinct, in India.**

CHAPTER -7

HURT, GRIEVOUS HURT

Ch. 7-1. Hurt: Sn. 319.

Kenny in his criminal Law has made a classification of offences against the body. Of these hurt, and grievous hurt are of significant value.

Sn. 319 I.P.C. defines **hurt**. Hurt means causing bodily pain, disease, infirmity to any person.

Pulling a woman by hair is hurt. This is also 'trespass to the person. Voluntarily causing hurt is punishable.

Court ameen was guilty of hurt, when he pulled out of a house, D to whom the court decree was not applicable [Amis Beg's Case]

Infirmity may be permanent or temporary.

Ch. 7-2. Grievous hurt :

Under section 320 I.P.C. the following are declared as grievous :

- 1) Immaculation (Depriving a man of masculine vigour)
- 2) Permanent privation of eye-sight of either eye
- 3) Permanent privation of hearing
- 4) Privation of any joint
- 5) Destruction or permanent impairing of the powers of any member or joint of the body
- 6) Permanent disfiguration of the head or face. A person created scars with a red hot iron on the face of a girl, G. This was grievous hurt.
- 7} Fracture or dislocation of bone or teeth
- 8) Any hurt which endangers life, and any hurt which causes the person suffer for more than twenty days severe bodily pain or which makes him unable to follow his day to day pursuits.

Mere hospitalization for twenty days will not make the hurt grievous. That person must not be in a position to attend his day to day work for twenty days. **This is the test adopted by the courts.**

e.g. i) A with an intention to disfigure Z's face hits him. Z suffer.-. for more than twenty days in the hospital. There is **grievous hurt**.

ii) A hits-hard with his fist on the left ear of B, with an intention to cause hurt, but B lost his hearing permanently. Held A is

guilty of

Grievous hurt.

Hurt becomes grievous, when it endangers life. A blow on the head of B with an axe, which made a deep half inch wound was likely to endanger life (Panduranga V. State)

Voluntarily Causing hurt is punishable under Sn. 321.

Voluntarily Causing grievous hurt is punishable under Sns. 323 to 336.

CHAPTER -8

WRONGFUL RESTRAINT AND CONFINEMENT

Oh. 8-1. Wrongful restraint and wrongful confinement : Sn339, and 340

The fundamental rule is that 'every man's person is sacred and law visits penalties on the accused who violates this rule and molests the person in his free movement. Wrongful restraint and wrongful confinement are two offences according to the I.P.C. under Sn. 339 and 340, which punish individuals for violation of a person's movements.

Wrongful restraint :

A person who voluntarily obstructs another so as to prevent him from proceeding in any direction in which that person had a right to go, is guilty of wrongful restraint.

Exception: A person who, in good faith, believes that he has a right to pass.

1) A obstructs Z of his way 'A's intentions are not in good faith. Z is prevented from passing. This is wrongful restraint.

2) A removed the ladder and prevented B from getting down the roof of a house.

3) A builds a wall across a path along which B had a right to pass.

4) A threatens to set his savage dog at Z, to prevent Z from passing along the road where he had a right to pass.

5) B and his family were living in a house. A put a lock in the- temporary absence of the family. A had locked without any good faith.

in all these cases the accused is guilty of wrongful restraint.

Ch. 8-2. Wrongful confinement:

A person who wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits is guilty of wrongful confinement.

Bg. a) A causes Z to go within a walled space and locks Z in. Z is thereby prevented from proceeding in any direction beyond the circumscribing line of the wall. A is guilty.

b) A keeps his men with guns and warns Z that if he ever tries to leave the building they would kill him. A is guilty.

Punishment: This depends on how many days a person is confined by the accused.

In Shamlal's case, a police constable detained some persons for several days as suspects; it was held that he was guilty under this section.

Ch. 8-3. Wrongful restraint and wrongful confinement:

Wrongful restraint	Wrongful confinement
1. The obstruction is, to prevent a person from proceeding in the direction he desires.	The person is confined and is prevented from moving in all directions beyond a defined limit.
2. The obstruction is in one direction (e.g. as above)	The obstruction is all around (e.g. as above)
3. Punishment is one month or Rs. 500 or both.	Punishment depends on how many days of confinement etc. as .Sns. 342 to 348.

CHAPTER-9

CRIMINAL FORCE AND ASSAULT

C. 9-1. Criminal force : Sn. 350

Sn. 249 defines farce and Sn. 350 defines criminal force.

1) **Force** : A is said to use force to B, if A causes motion or change of motion to B, or if A causes with any substance such motion or change of motion so as to make that substance come in contact with the body of B or anything he is carrying so as to affect his sense of feeling.

The means adopted may be ^

- a) By A, with his own bodily power or
- b) By setting the substance in motion without further acting on it.
- c) By inducing an animal to move

ii) Using **criminal force** is an offence punishable under I.P.C.

Any person who intentionally uses 'force' to another without his consent with a view to commit an offence or knowingly uses force to cause injury, fear or annoyance to him, is guilty of using criminal force.

E.g. 1) Z is sitting on a boat that is moored. A to cause fear and annoyance to Z, releases the mooring. The boat sets out down the stream. A is guilty, of using criminal force.

2) A intentionally pulls the veil (purdha) of a woman without her consent to annoy her. A is guilty under this section.

3) A incites his dog to spring upon Z without Z's consent. This annoys Z. A is guilty.

4) Z is carrying a pot of water. A, without Z's consent, intentionally to annoy Z, hits the pot with a stone. The stone makes a hole and water rushes out causing annoyance to Z. A is guilty.

5) A is riding a chariot. B lashes the horse, without A's consent, to frighten or annoy A. B is guilty.

6) A is on the palanquin on a visit to a place. Z holds the pole to rob A. Z has used force there is use of criminal force.

If A, the accused forcibly breaks open the lock of B' house &. enters, there is no criminal force, as force should be against a person as defined in Sn. 349.

Ch. 9-2. **Assault** : Sn. 351.

Any person who intentionally or knowingly makes any gesture or preparation to apprehend another with a preparation to use criminal force is guilty of assault.

Mere words do not amount to assault. But the words with the use of gestures or preparations bring such a meaning that criminal force is about to be applied.

Eg. 1) A shakes his fist at Z, and moves towards Z in such a manner that Z believes that criminal force is about to be used on him. This is assault.

2) A begins to let loose a ferocious dog to cause fear and annoyance to Z. This is assault.

3) A takes up a stick saying to Z 'I will give you a good beating'. These words will not amount to assault. But, if A with gestures moves towards Z to beat him, this becomes assault. (Actual beating is not necessary),

Assault	Criminal force
1. Definition (as above)	1) Definition (as above)
2. This is less than use of criminal force. Actual touching is not necessary. It is the real apprehension that makes assault	2) Force is used as in (above)

v

- Examples: see Assault and Criminal force

CHAPTER -10

KIDNAPPING, ABDUCTION

Ch. 10-1. Kidnapping:

It means, literally **carrying a child by illegal force**. Kidnapping is of two kinds. Kidnapping from India and Kidnapping from lawful guardianship.

Kidnapping from lawful guardianship:

The object of these sections is to protect the minor children from being seduced for improper purposes, & also to protect the rights of the guardians.

Sn. 359: If a person takes or entices a minor, under sixteen if a male, and under eighteen if a female, or any person of unsound mind, out of the keeping of the lawful guardianship without the consent of such guardian, he is guilty of kidnapping.

Essentials :

i) Lawful guardian means any person who is lawfully entrusted with the care and custody of such minor or other person.

There is an exception to this. If a person in good faith, believes that he is the father of an illegitimate child, he is not guilty. But he becomes guilty if he has taken the child for an immoral or illegal purpose.

R.V. Jagannath :

Father F sent his second daughter to his married first daughter's house. The first daughter got the second daughter married to J. Held: There was no offence because there was no taking out of lawful guardianship.

Varadarajan V. State of Madras :

The accused was charged of kidnapping a minor girl by name Savithri. The Supreme Court held that when a minor girl leaves her father's protection, knowing, and having full capacity in all aspects of what she was doing, and finally of marrying him, the accused is not guilty.

There was no "taking" of the minor, there was no inducement: the girl was capable of knowing what was good for her, the Supreme Court observed.

ii) The taking must be of a boy below sixteen or a girl below eighteen, or a person of unsound mind.

In **R.V. Rabbins** the accused went to the house of a minor girl by night, kept a ladder against the window, by which she came down. She eloped with him. Held the accused was guilty.

In R.V. Prince (English case : girl must be below sixteen).

The accused pleaded that the girl looked to be above sixteen and therefore he was not guilty. The court held that this was a bad argument. Her real age must be taken into consideration.

The taking must be from the lawful guardian. Moving with the girl is important and it completes the offence. If a girl runs away from her house because of ill-treatment and joins service as a coolly with A. held there is no offence (Gunder Singh's case).

In *Vadgama V. St. of Gujrat*, V the accused had taken Mohini from her other's guardianship. Grounds of ill treatment of Mohini by her mother were rejected. V was held guilty. Another leading case is *St. of Haryana V. Raja Ram*

In. 10-2. Abduction : Sn. 362.

If a person by force or by deceitful means induces any person to go from one place to another, he is guilty of abduction.

ii 10-3. Differences between kidnapping and abduction

Kidnapping	Abduction
Age The girl must be below 18 ,boy; below16	1. Age: Above sixteen for boy, 18 for girl
2. Consent of the child is immaterial	2. Consent negatives the offence.
3. There is enticing or-taking away of the child.	3. The accused forces or uses compulsion by deceitful means
4. Intention of the kidnapper is immaterial (i.e. not relevant)	4. Intention is important and relevant.
5. Moving out of lawful guardian-ship completes the offence	5. There is inducement to move from one place to another.
6. It is a completed offence (seven years imprisonment).	6. It is a continuing offence, (the punishment depends on the purpose for which the abduction is done).

CHAPTER -11

THEFT

Ch.11. Theft :Sn. 378.

Sn, 378 Indian Penal Code defines theft. A person is guilty of theft if he takes with dishonest intention, any moveable property, out of the possession of any person, without his consent and moves with the property.

a) If an item is attached to the earth, it cannot be stolen, but if it is freed from the earth it may be stolen.

b) Moving the property is essential. Removing an obstacle amounts to theft.

Eg. : i) A cuts down a tree from the field of Z with a view to dishonestly taking the tree. He has committed theft, when he severs the tree.

ii) A meets a bullock cart carrying valuable articles, he causes it to be moved in a different direction with a dishonest intention to take it. This is theft.

iii) A is the paramour of Z's wife. She gives valuable property of Z without the authority of Z. A takes the property dishonestly. He commits theft.

Essentials:

i) Dishonest taking:

The dishonest intention is the gist of the offense. The accused must make wrongful gain or wrongful loss. The taking must be dishonest.

E.g. a) Taking a cow by force, in satisfaction of a debt, is a wrongful gain and therefore theft. *Animo Furtandi* (Intention) is essential.

b) Office file : **Pyarelal Bhargava V. St. of Rajasthan** : The Supreme court has held that removing an office file for the purpose of removing some documents and replacing with others, is theft under this section.

ii) Moveable property:

The property for theft must be moveable only. Human body is not moveable property and therefore cannot be stolen. Once the property is severed from the earth it becomes moveable.

iii) Out of the possession of the person:

Taking a thing out of the possession of the person is essential. Hence the offender, must take the property otherwise there is no offense.

iv) Without consent :

If there is consent of the owner, there is no offense of theft at all. Consent may be expressed or implied.

v) Moving with the property:

Theft is completed \when there is dishonest moving with the property. A guest who takes away dishonestly the bed sheets while going was held guilty of theft when he moved out of the house.

In **Mehra V. St. of Rajasthan**, moving out with dishonest intention was essential for theft the Supreme Court said

A person may commit a theft of his own property.

A pledges his goods with P. Subsequently he takes them without the consent of P. dishonestly. A is guilty of theft of his own property.

Theft in dwelling house is punishable under Sn. 380

CHAPTER -12

EXTORTION, ROBBERY AND DACOITY

Ch. 12-1. **Extortion** :Sn. 383.

Extortion is an offense under Sn. 383 Indian Penal Code, if a person intentionally puts another person in fear of any injury to himself or any other person, thereby dishonestly induces the person so put in fear to deliver to any person, any property or valuable security or any such thing, is guilty of extortion.

A threatens to publish a libel against Z, unless Z gives money. Here A has induced Z to give him the money.' Therefore. A is guilty.

A keeps B's child in wrongful confinement, and, demands from B Rs.2, 25,000 - B, so put in fear pays to A. A is guilty of extortion.

Moveable or immoveable property may be taken under extortion.

12-2. **Robbery**: Sn. 390.

Robbery is an offence under Sn. 390 I.P..C. In all cases of Robbery there is either theft or extortion.

i) Theft is robbery if the offender in order to commit theft or to carry away the property so obtained by theft, voluntarily causes to any person death or hurt or wrongful restraint (or fear of death or instant hurt or wrongful restraint).

E.g. A is standing on the doorway. B pulls him out into a ditch, enters the house, and takes away jewels. This is robbery (theft + Force = Robbery).

ii) Extortion is robbery if, the offender at the time of committing extortion is in the presence of the person, who is put in fear of instant death or hurt or wrongful restraint. The offender by so putting the person in fear **induces to deliver up the property then and there.**

E.g. i) A holds Z down and fraudulently takes Z's money and jewels without Z's consent. A has committed theft. But here he has put Z in fear of instant hurt and has forced Z to deliver the purse then and there. A has committed robbery.

ii) A has kept ready the goods after committing theft but he is caught by B. A puts B in fear of instant death and takes away the goods. This is robbery.

iii) A meets Z on the road, shows-a pistol and demands Z's purse. Z surrenders the purse. A has put Z in fear of instant hurt forcing Z to deliver the purse then and there. A has committed robbery.

Ch. 12-3. Dacoity : Sn. 391.

If. Five or more persons can jointly commit robbery then it is dacoity. Hence in dacoity there is robbery done by a group of persons **five or more** in number.

i) A with his four friends wrote a letter to Z "Your pretty child is in our hands, if you do not bring Rs.2, 50,000 to a particular place to-day evening, you will get only the dead body". Z pays the money. This is Dacoity. The reason is there are five persons.

ii) A, with his four associates, keeps Z in fear of instant death of Z's child, by throwing it down the hill, and demands Rs.20,000. Z pays then and there the amount. This is Dacoity.

Ch 12.4, Extortion & Robbery distinguished:

Extortion	Robbery
1. Accused puts the person in fear of injury to him or to any person. Accused is not physically present.	1. Accused is present & puts the person in fear of instant death, hurt or wrongful restraint.
2. Accused dishonestly induces to ... deliver the property to some person in some place.	2. <i>Accused induces to deliver the property then & there i.e, instantly.</i>

CHAPTER -13

CRIMINAL MISAPPROPRIATION

Ch. 13.1. Criminal Misappropriation: Sn. 403.

A. person who dishonestly misappropriates or converts to his own use any movable property is guilty of criminal misappropriation of property. The punishment is imprisonment for two years or fine or both.

A dishonest misappropriation for a small interval of time also amounts to misappropriation.

The person gets the property innocently i.e.. he chances to get the property. If he takes the property to protect it or to restore it to the owner, he is not guilty. But if he does not restore it and if he does not discover the owner using reasonable means, he becomes guilty.

A finds a bundle of currency notes on the highway. He picks up the bundle with an intention to hand it over to the real owner. He is not guilty. But after taking home he changes his mind and uses for his own purposes. He is guilty when he changes his mind.

A finds a valuable ring on the road, A takes it without any idea of finding the owner and handing it over to him. He is guilty.

A and B are joint owners, A sells the house without B's consent and appropriates the entire amount for himself. He is guilty of criminal misappropriation.

Criminal misappropriation is different from theft. In 403, the person gets the property accidentally or innocently. But in theft, the person dishonestly takes the property without the consent of the owner.

Ch. 13-2. Theft and criminal misappropriation:

In Sn. 403, the accused does not know who the real owner is. If he fails to discover the owner and intentionally appropriates, he

becomes guilty of criminal appropriation. In theft, the accused knows the owner and his intention is dishonest from the beginning.

The accused has the title to property, if after reasonable search the owner CANNOT be found. But in theft there is dishonest intention from the beginning and therefore the thief has no title at all.

Ch. 13-3. Criminal breach of Trust : Sn. 405 :

Sn. 405 makes the criminal breach of trust an offense. If a person, entrusted with the property, or any dominion over property, dishonestly misappropriates or converts to his own use or disposes of, against law he is guilty of criminal breach of trust. This is embezzlement according to English law.

Eg. i) A, a carrier is entrusted with furniture to deliver to the consignee. A sells the furniture to B. A is guilty under Sn. 405.

It is important that the property must be" **entrusted to the accused, and he must dishonestly misappropriate it.**

Provident Fund Contribution to E S I etc.

If Persons entrusted dishonestly misappropriate they are guilty.

ii) Prize competition: The prize winners were not given the prizes. A was tried on the ground of criminal breach of trust. Ramaswamy Nadar V. State of Madras, the Supreme Court held that there was no breach of trust, as he had not appropriated any money for his own purposes.

in) A, a revenue cashier, appropriates Rs. 5000 instead of remitting to the treasury. This is criminal breach of trust.

iv) A servant, who mixed liquor with water (without permission) and appropriated the difference of money got by selling the liquor was held guilty under this section.

v) A executes his will. E is appointed as executor. E divided the property & used for his own use. He is guilty.

Dalmia V. Delhi Admn: One partner was given authority by other partners to collect the property of the firm, he is entrusted with dominion over property & if he dishonestly misappropriates, he is guilty of criminal breach of trust.

Hire purchase agreement: Not paying installment, is not criminal breach of trust

Criminal misappropriation and criminal breach of Trust.

Property is got innocently or the person chances to get it in Cr. Misappropriation. But, in Cr. Breach of trust, property is entrusted or dominion is given.

There is dishonest misappropriation in both the offences.

Entrustment of property: May be with the Carrier, wharfinger servant, clerk, public servant, banker, merchant etc.

Leading cases:

1. W. B. V. S. K. Roy.
2. Somnath V. St. of Rajasthan
3. Budh singh V St. of Haryana

Ch. 13-4. Receiving stolen property : Sn. 411,

Dishonestly receiving stolen property is an offence under Sn. 411.

Stolen property (Sn. 41(1)) is defined as property if its possession is transferred by (i) theft (ii) by extortion (iii) robbery or in respect of which there is (i) a criminal breach of trust and (ii) criminal misappropriation.

Exception : If such a property comes to the possession of the person who is legally entitled, then it ceases to be a stolen property.

Sn. 41] makes it an offence to receive or to retain any stolen property as defined in Sn. 410.

**The Supreme Court in Trimak Prasad V. St. of M. P.
laid down three essential conditions:**

- i) The property must be a stolen property.
- ii)) The accused must have the knowledge and reasons to believe that the property is stolen.
- iii)) H E M U S T have received or retained such property, dishonestly.

In C'owell V. Green : the accused received from B the mutton of a sheep, which had been stolen. Held, guilty.

In Virumai V. St. of Gujrat. A was found in possession of stolen goods two days of the theft & he failed to give any reasonable explanation, A was held guilty under Sn. 411.

CHAPTER -14

CHEATING, MISCHIEF.

14-1. Cheating: Sn. 415-420.

A person who by deceiving another, fraudulently or dishonestly induces him to deliver any property or intentionally induces him to do or not do an act which causes damage to him or to his person, reputation and property, is guilty of cheating.

Eg.: i) A pretends to be an I.A.S. officer and dishonestly takes food items from B on credit. A is guilty of cheating by personation.

ii) A puts counterfeit mark on an article and sells. A cheats.

Hi) A sells diamonds which are not so. He cheats.

iv) A person enters an exhibition without a ticket. He cheats.

v) A sells his property to B, but possession is not given to B.

A then mortgages to C. A cheats. The essential ingredient is deception. The injury may be to a person, his reputation or property he makes a wrongful gain or wrongful loss.

A dishonest concealment of facts is deception.

Sn. 420 provides for punishment of person who cheats and induces any person to part with any part of the valuable security. This refers to alteration or destruction of the valuable security. The punishment is imprisonment for seven years and fine.

Cases: On cheating:

1. A, the accused told B that he would double currency notes, which B doubted. But, B gave currency notes for the purpose. Held, there 'was no cheating as B knew that doubling was false. A was convicted of attempt to cheat. (Ramnath V state)

2. A, accused, advertised for "gupta mantra" which would solve all problems if certain instructions are followed. B took the instruction by paying. One condition was gazing at the moon for 15 minutes .with- out winking. Held, this was almost an impossible condition. & hence there was cheating (Arab Mihan V. state).

3. A, a doctor certified that the life of B to be insured was first class. The company believing the certificate insured B. B had a bad health record & died within a few days A cheats.

Leading cases: TulsiRam V. St. of U..P

Mahadev Prasad V. St. of W. B

. Ch. 14-2. Mischief: Sn. 425

Mischief is an offence under Sn. 425 **I.P.C.** If a person with an intention to cause wrongful loss or damage to public or to any person, causes the destruction of the property or causes any change or situation as will destroy or diminish its value or utility, he is guilty of mischief. The punishment is imprisonment for three months or fine or both.

It is not essential that the offender should intend to cause loss or damage to the property. Suffice if he has the intention to cause wrongful loss or damage. A person commits mischief of his own property where, as joint owner, he causes damage to the property.

i) A throws a wrist watch of B voluntarily into a river intending to cause wrongful loss. A is guilty of mischief

ii) A burns a valuable security (pronote) belonging to B voluntarily with the intention to cause wrongful loss to him. A is guilty of mischief.

iii) A and B are joint owners of a horse. A shoots down the horse and kills it, with a view to cause wrongful loss to B. A is guilty under Sn. 425.

The mens-rea (bad intention) in mischief is to cause wrongful loss. The act done is the destruction of property.

Sukha Singh's case :

S received a registered parcel. He took the parcel but tore up the acknowledgement form. Held, S is guilty of mischief

iv) A having insured a ship, voluntarily causes it to be cast away with a view to causing loss to insurance company. A is guilty.

v) A leads in a herd of cattle to the field of B where there was standing crop, intending to cause damage to B. A is guilty.

Sns 426 to 440 provide for punishment for mischief of various descriptions. Maiming or killing of animal (428 & 429), injury to works of irrigation, water course (430), injury to public road, bridge, river or channel (431) destruction of house (436) vessel etc..

CHAPTER -15

CRIMINAL TRESPASS AND HOUSE BREAKING

Ch. 15-1. Criminal Trespass : Sn. 441.

If a person enters upon the property in the possession of another, with an intention to commit an offence *or* to intimidate, insult or annoy any person he commits criminal trespass. If having lawfully entered he remains there unlawfully and commits an offence, he is guilty of criminal trespass.

A landlord who forcibly enters his land in the possession of his tenant B, to beat B, commits criminal trespass.

Use of criminal force, is not essential. The intention is aiming at the desired object or motive. (Maithri V. St. of punjab).

Sn. 447 provides for punishment for criminal trespass.

Ch. 15-2. House trespass: Sn. 442.

If a person enters into or upon the property of another with an intention to commit an offence, he is guilty of criminal trespass. A person who lawfully enters but who stays unlawfully may have an intention to commit an offence; he is guilty of criminal trespass.

If a person commits criminal trespass by entering into or remaining in any building, tent or vessel or place used for worship, he is guilty of house trespass. The introduction of any part of the body of the accused is sufficient.

Ch. 15-3. Lurking house trespass: Sn. 443.

A person who commits house trespass taking precautions to conceal himself, is guilty of lurking house trespass. The accused should have taken active steps and means to conceal his presence. It becomes lurking house trespass by night if he conceals after sunset but before sunrise (Sn. 444).

Ch. 15-4. House breaking: Sn. 445.

A person is guilty of house breaking, if he enters the house -pi- after entering quits through an entrance, in any of the six ways

i) A passage made by himself. Ex. A makes a hole through the wall and puts his hand: f

ii) Through a passage which he had opened, which passage is not intended for human entrance. He may enter by scaling or climbing over the wall;

Ex. A enters by breaking the window or by breaking open the door. This is house-breaking.

iii) Any passage which he has opened to commit house trespass by any means, by which that passage was not intended by the occupier of the house to be opened.

. Ex : A enters B's house in the evening through the main door but after committing theft he leaves the house by opening an inner door, which had been fastened by the owner. This is house-breaking,

iv) If the offender enters by opening any lock.

v) The offender enters by using criminal force or committing assault or threatening to commit assault.

Ex : X is standing in his doorway. A knocks him down and enters the house to commit house trespass.

vi) The offender enters or quits by any passage which he knows to have been fastened.

Ex : A enters B's house through a door after opening it.

Punishment for lurking house, trespass & house-breaking in Sns. 453 to 461,1. P. C. depends on the nature of the description given in them.

In Chellappan V. St. of Kerala, the accused, with dangerous weapons, had entered a wireless station & was concealing. Held, there was lurking house trespass & hence guilty under Sn. 455

CHAPTER-16

FORGERY

Chi 16. Forgery : Sn. 463.

There are two sections defining forgery. Sn 463 defines forgery. Sn. 464 defines 'making a false document', which is one of the essentials of forgery.

Forgery:

A person who makes a false document or part of it with an intention

- i) to cause damage or injury to the public or to any person
- , ii) to support any claim or title
- iii) to cause any person to part with property or enter into contract
- iv) to commit fraud or that fraud may be committed - is guilty of forgery;

False Document:

A person is said to make a false document in the following circumstances:

- i) He must dishonestly or fraudulently, make, sign, seal or execute a document, with knowledge or an intention to make others believe that it was genuinely done by the concerned authority.
- ii) The person, without lawful authority, dishonestly or fraudulently cancels, or alters the document made by himself or by any other (living or not).
- iii) The person may cause any other person who is insane, or intoxicated or deceived, to sign or seal or execute or alter a document.

E.g. : 1) A without authority affixes the signature and seal of the controller of examinations to a marks-card and secures a seat in a Medical college. A is guilty of forgery.

2) A picks up a blank cheque duly signed by B. A without authority but dishonestly fills up and takes Rs. 8000/- from the Bank. A is guilty.

3) Z has written a will giving 'the remaining property to A and B'. A dishonestly scratches B's name. This is forgery.

A person may commit forgery of his own signature,

- i) A money-order is received in the name of B, A person

with the same name takes it dishonestly. He is guilty of forgery.

ii) "A picks up a bill of exchange payable to another person of the same name. A endorses the bill, intending to make others believe that it was done duly by A. A has committed forgery.

Making of a false document in the name of a fictitious person or by a dead man may amount to forgery.

A draws a bill of exchange in the name of a fictitious person. He fraudulently accepts it, in that name with a view to negotiate it. A commits forgery.

Recent Supreme Court Decisions:

i) Rarn Narain V. State of Punjab.

Accused had forged the signature of the drawer of cheque and encashed dishonestly. Held: Guilty.

ii) Jagannath Prasad V. State of U.P.

Producing a forged document before a tribunal to support a claim was held forgery under Sn. 463.

iii) Budhu Ram V. State of Rajasthan.

Production of a photostat copy of a forged document was held sufficient to commit forgery.

iv) Dr Vimal V Delhi: Dr Vimalpure

J bought a car in her daughter's name: She claimed accident insurance by signing daughter's name. In the circumstance there was no fraud. Hence, not guilty of forgery.

v) Bansal V Delhi: Grandson of had signed the name of deceased Grandfather and claimed amounts of Govt. Securities. Guilty of forgery-

CHAPTER -17

RAPE, ADULTERY, BIGAMY

Cli. 17-1. Rape: Sn. 375.

A man is guilty of rape, if he has sexual intercourse with a woman (i j Against her will

(i i) Without her consent \

(iii) Obtaining consent by putting her in fear of death or of hurt.

(iv) With or without consent when she is below sixteen years or

(v) Obtaining consent, the man, knowing that he is not the husband and she believing that she is married to him. The punishment is two years imprisonment or fine or both.

Exception :

Sexual intercourse with his own wife, the wife being fifteen years or above is not rape.

Explanation: Penetration is sufficient for rape. Leading case -State of U. P Vs. Babulnath (1994) S. C.

E.g. (i) A doctor had illicit intercourse with a girl-patient of fourteen years of age. She believed that she was being given treatment. Held, this amounted to "rape".

ii) **Williams case** : A music teacher made his pupil of sixteen years to believe that some operation was required to improve her voice, and had sexual intercourse with her, held he was guilty of Rape*

Essentials:

There are two major essentials of Rape

(i) Sexual intercourse by a man with a woman.

(ii) Such intercourse should be under 5 circumstances noted above.

(i) For rape, as given in the explanation, mere penetration is sufficient. Rupture of hymen with injuries was held sufficient in Bhudan In!. V State. Doctor's evidence will be of great value.

*

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Sexual intercourse with a sleeping woman, against *her* will, or with a weak minded woman who could not form any judgement on the matter are sufficient.

Obtaining consent by fear or terror or fear of death is no

o>in-sent.

Similarly consent obtained by fraud is **no consent**.

In R V Williams, a music teacher had sexual inter course with his pupil under 16 years .of age, under the pretext of improving her voice. He was held guilty of rape.

Aggravated form :

Public officer, police officer, a person on jail staff, or hospital staff-if commits rape of woman in custody or care, would be punished with 10 years imprisonment or fine.

Ch. 17-2. **Adultery**: Sn. 497

A man **who** has

i) Sexual intercourse with a woman who is or whom he knows or believes to be the wife of another man.

ii) Without the consent or the connivance of the husband, is guilty of Adultery. This act should not amount to rape. The wife is not punishable, but the adulterer is punishable for five years or with fine or both.

Scope : Adultery is limited to a married woman. It is an offence because it is committed by the third person against the husband, in respect of his wife.

The wife is not punishable but adulterer is punished as it is an offence against the husband.

*As per the I P C Amendment Bill
2009 the wife and the man are
punishable for 2 years.*

The relationship (if husband and wife is to be established.

The adulterer may or may not know whose wife the woman is. Enough if he knows or he has reason to believe, that she is a married woman.

The sexual intercourse should not amount to rape. Hence, if consent of married woman is obtained by putting her in fear of death or hurt, it is rape is not adultery

Rape, adultery-differences:

Ra pe

1. Sexual intercourse is with out consent of woman or obtaining her consent with use of fear of death or hurt or against her will

Adultery

- | | |
|--|---|
| 1. Sexual intercourse is done without the consent or connivance of the husband. If consent of woman is obtained by force or fear of death or hurt. it is rape and not adultery | |
| 2. Rape may be on any married. unmarried woman or a widow | 2. Adultery may be committed on a married woman only. |
| 3 Husband may commit rape on his wife if she is below 16 years | 3. Husband cannot commit adultery on his wife. |
| 4. If woman above 16, gives consent, there is no rape | 4. It is adultery if wife is a consenting party |

Ch. 17-3. Bigamy: Sn. 494.

i) There is bigamy if, the second marriage is conducted, when the wife or husband is alive. The second marriage according to law (e.g. The Hindu Marriage Act 1956) should be void according to law.

ii) A divorcee may re-marry. There is no bigamy.

iii)) If the other spouse is continuously unheard of for seven years and above as alive (Evidence Act), there is a presumption of death, and disclosing this, the spouse may re-marry. This is not bigamy (R.V. Tolson).

This section does not apply to mohammadan male. It applies to Hindu males, females. And also to Christians. Parsis

It is essential that the earlier marriage should be valid & subsisting. Further, the second marriage should be valid to constitute bigamy.

Case : B. S. Lakhande v. St. of Maharashtra

CHAPTER-18

DEFAMATION

Ch. 18-1. Defamation : Sn. 499.

Defamation is an offence as defined in Sn. 499. I.P.C.

A person is guilty of defamation if he

- i) by words - spoken or written,
- ii) by signs or visible representation,
- iii) makes or publishes any imputation concerning a person
- iv) Intending to harm or knows it would harm the reputation of such a person.

Punishment: two years simple imprisonment or fine or both

Explanation:

- i) it amounts to defamation if the imputation harms the reputation of a deceased person.
- ii)) A Company or an Association or a group of persons may be subject to defamation.
- iii) Ironical expressions amount to defamation.

Test: The imputation when amounts to defamation is explained in Sn. 499.

In the estimation of others, directly or indirectly, the imputation must

- i) Lower his moral or intellectual character,
- ii) Lower his character in his caste, business or credit in society
- iii) Cause to believe that he was suffering from a loathsome or disgraceful disease.

There is no difference between slander and libel, in criminal law.

Essentials :

The above test must be answered

- ii) **Publication** is the essence of the offence. This means communication to some person other than the defamed. The person (maker) and the publisher are both guilty for publication in newspapers.

E.g. a) A says Z is an "honest" man. He never stole B's watch to make others believe that Z did steal B's watch. This is defamation.

b) A draws a picture showing B running away with A's wrist watch. A's intention was to make others believe that B was a thief, this is defamation.

Exceptions:

There are 10 exceptions provided for in Sn. 499.

Four such exceptions are :

i) If a person expresses in good faith any opinion on the merits of a civil or criminal case decided by a court, it is not defamation.

The comment may be with reference to any witness or agent or his character (as reflected in the case).

A says : 'I think Z's evidence in the court is so contradictory that he must be stupid or dishonest'. If he has stated this in good faith regarding Z's conduct, he is within this exception.

If A says: 'Z is known to be without any veracity'. This is not protected.

ii) The author who presents any public performance has submitted that for public opinion.

Hence, any person who expresses, in good faith, his opinion for criticism, is within this exception.

a) A person, who publishes a book, submits that book to the judgement of the public.

b) An actor, singer, public speaker submits himself to the judgement of the public.

c) A says : 'Z's book is foolish, it is indecent, he must be a man with impure mind.

A is protected if he has said in good faith. But, if A says 'Z's book is foolish. Z is a lunatic'. A is not protected.

iii) Any censure, in good faith, by person having lawful authority over another is protected.

a) A, a judge, censured a police officer but in good faith, is protected.

b) The Manager of a Bank, censuring in good faith, the cashier for his conduct, is within this exception.

iv) Any imputation made on the character of another in good faith, is protected if the same is done for safeguarding the interests of that person.

A, a Company Director, tells B, the Manager 'Do not give anything to Z on credit, for I have doubts about his honesty'. If this is

made in good faith, he is protected.

The leading cases are:

1. Bhagat singh V. Laxman singh
2. Katar singh V. St. of Punjab
3. Kanwal lal V. St. of Punjab
4. Harbajan singh V. St. of Punjab.

**[Note : There are 10 exceptions..Only 4 are given above.
You may add 6 more from I P C Reference Section given
as appendix]page 84**

Punishment:

Sn. 500 Provides for punishment of 2 years S. 1., fine or both.

CHAPTER 19

CRIMINAL INTIMIDATION

Ch, 19-1. Criminal Intimidation : Sn. 503,

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A person commits criminal intimidation, if he threatens another with injury to him or his reputation or property, with an intention to cause harm or to cause him to do or not to do a thing.

The gist of the offence is threat. A threat to the reputation of a dead person is also an offence under Sn. 503.

E.g. A wants to sue B. B threatens A to burn A's house. B is guilty under Sn. 503.

The essentials are:

1. There should be a threat to cause injury to that person, his reputation or his property (or of another)
2. With intent to cause alarm,
3. Causing that person to do any act which he is not legally bound to it, or omit to do legal act.

(Jugal Kishore *V.* state)

Punishment for criminal intimidation is in Sn. 506 & 507

Ch.19.2. Inchoate offences :

Section 511 I.P.C. deals with inchoate offences. There are three stages in a crime.

i) intention ii)

Preparation iii)

Attempt

If the attempt is successful, it amounts to a completed crime. Otherwise, it is only an attempt. If such an attempt is punishable, by I.P.C, in the sections it is punishable as specified in those section. If not so provided, it comes under 511.

e.g. : i) A breaks open a jewel box to steal (Sn. 37N) but there was no jewel in it. He is punishable for half the imprisonment provided for theft in Sn. 378. This provides for a maximum punishment of 3 years. Hence, the maximum punishment is one and half years.

ii) A picks the pocket of B. He finds nothing there. He is punishable for half of the punishment i.e. for one and half years instead of 3 years.

The section is applicable to offences:

- i) Punishable with imprisonment for life or (ii) Imprisonment

It does not apply to offences to **which there is fine only**.

Ex : **(for fine only)**

- i) Illegal payments in election, the penalty is fine upto Rs500

i i) Causing danger to public highway or committing public nuisance.
Fine is Rs.200/-

It does not apply to 299 or 300 to which the penalty is death.

It also does not apply to such offences in which the attempt is punishable under the I.P.C.

E.g. (i) Attempt to commit murder (307

- ii)) Attempt to commit suicide (309).

Leading cases :

- i) R.V. Baku

- ii) R.V. Peterson

- iii) R.V. Mangesh

In St. of Maharastra V. Yakub, custom officials surrounded

A's group, who were removing silver-ingots to smuggle out of India. When they were checking, the vessel disappeared. Held, there was attempt, and in pursuance some act was done (preparation) to smuggle & intention was suggestive. Hence A & his group were guilty of attempt.

In Ashar Ali V R, accused A to terminate pregnancy administered some powder by force to B. B spit out & cried out loudly. A ran away. The powder was found to be harmless. Held: not liable under Sn. 511.

Ch 19.3 De minimis non curet lex (Sn. 95 I. P. C.)

This **means law will not take cognizance of trifles**. If an act is done by a person, which causes harm to another, and the harm is so slight that no person with ordinary sense or temper would complain of it, is not an offence. The act may be intended or likely to cause harm. The reason is that the harm is trivial ie., it is a negligible wrong or offence, e.g.: use of mere abusive words; Allowing a cow to stray on the road causing nuisance; A remark on a person with no consequence. However, pulling a person by the hair is not trivial: pulling out a customer with use of filthy language etc-are not trivial.

THE END

REFERENCE SECTION

SELECTED SECTIONS

THE INDIAN PENAL CODE, 1860

Sns

19. **"Judge".**--The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person. who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment. Illustrations (a) A collector exercising jurisdiction in a suit under Act 10 of 1859, is a Judge. (b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment with or without appeal, is a Judge. (c) A member of a panchayat which has power, under 5*Regulation VII, 1816, of the Madras Code, to try and determine suit, is a Judge. (d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

20. **"Court of Justice".**--The words "Court of Jutsice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially. Illustration A Panchayat acting under 5*Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice
. " .

23. **"Wrongful gain".**--"Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled. "Wrongful loss". "Wrongful loss".--"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled. Gaining wrongfully. Losing wrongfully. Gaining wrongfully. Losing wrongfully.--A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

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

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

28. **"Counterfeit".**--A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised. 1*[Explanation 1.--It is not essential to counterfeiting that the imitation should be exact. Explanation 2.--When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the

one thing to resemble the other thing intended by means of that resemblance to
practise

deception or knew it to be likely that deception would thereby be practised.]

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

Explanation 1.--It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not. Illustrations A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document. A cheque upon a banker is a document. A power-of-attorney is a document. A map or plan which is intended to be used or which may be used as evidence, is a document. A writing containing directions or instructions is a document.

Explanation 2.--Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed. Illustration A writes his name on the back of a bill of exchange payable to his order.

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

33. "Act". "Omission".

The word "act" denotes as well as series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission.

39. "Voluntarily".--A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it. Illustration A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating 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.

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

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

53. Punishments.--The punishments to which offenders are liable under the provisions of this Code are-- First.--Death; Secondly.--Imprisonment for life; Fourthly.--Imprisonment, which is of two descriptions, namely:- (1) Rigorous, that is with hard labour; (2) Simple; Fifthly.--Forfeiture of property; Sixthly.-- Fine.

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

imprisonment shall not exceed six months: a time not exceeding two months if the term of imprisonment shall exceed six months and 1*[shall not exceed one] year: a time not exceeding three months if the term of imprisonment shall exceed one year.

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

CHAPTER IV GENERAL EXCEPTIONS

76. Act done by a person bound, or by mistake of fact believing himself bound, by law --Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it. Illustrations (a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence. (b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

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

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

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

Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it. Illustration A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the 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.

80. Accident in doing a lawful act.--Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution. Illustration A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

81. Act likely to cause harm, but done without criminal intent, and to prevent other harm.--Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property. Explanation.-It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm. Illustrations (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. 115

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

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

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

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

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

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

89. Act done in good faith for benefit of child or insane person, by or by consent of guardian.--Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person: Provided- 116 Provisos. Provisos.-First.-That this exception shall not extend to the intentional causing of death, or to the attempting to cause death; Secondly.- That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity; Thirdly.-That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity; Fourthly.-That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend. Illustration A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's

death. A is within the exception, in as much as his object was the cure of the child.

90. Consent known to be given under fear or misconception.--A consent is not such a consent as is intended by any section of this Code, if the consent is given

by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or Consent of insane person. Consent of insane person.-if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or Consent of child. Consent of child.-unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

91. Exclusion of acts which are offences independently of harm cause.--The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given. Illustration Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is offence inexpediently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence "by reason of such harm"; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

92. Act done in good faith for benefit of a person without consent.--Nothing is an offence by reason of any harm which it may causes to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit: Provided- Provisos. 117 Provisos.- First.-That this exception shall not extend to the intentional causing of death or the attempting to cause death; Secondly.-That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity; Thirdly.-That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt; Fourthly.-That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend. Illustrations (a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence. (b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence. (c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not 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

93. Communication made in good faith.--No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person. Illustration A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. Act to which a person is compelled by threats.--Except murder, and offences against the State punishable with death, nothing is an offence which is

done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will

otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint. Explanation 1.-A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law. 118 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.

96. Things done in private defence.-

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

97. Right of private defence of the body and of property.—

Every person has a right, subject to the restrictions contained in section 99, to defend-

First.--His own body, and the body of any other person, against any offence affecting the human body; Secondly.--The property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

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

When an act which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

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

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

99. Acts against which there is no right of private defence.-- There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law. There is no right of private defence against an act which does not reasonably cause the

apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law.

295. Injuring or defiling place of worship, with intent to insult the religion of any class.--Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

296. Disturbing religious assembly.--Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

298. Uttering words, etc., with deliberate intent to wound religious feelings.--Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY

299. Culpable homicide.

Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations (a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(c) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B or to cause death by doing an act that he knew was

likely to cause death.

Explanation 1.-A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.-Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.-The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

300. Murder.

Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or -If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused. Or If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations (a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder

. (b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(d) A without any excuse fires a loaded cannon into a crowd of persons

and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Exception 1.-When culpable homicide is not murder.-Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:-

First.-That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.-That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.-That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.-Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact. 168

Illustrations (a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

Exception 2.-**Culpable homicide is not murder** if the offender in the exercise in good faith of the right of private defence or person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.-**Culpable homicide is not murder if the offender**, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.-**Culpable homicide is not murder if** it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.-It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.-Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent. 169

Illustration A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder. .

301. Culpable homicide by causing death of person other than person whose death was intended.--If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

302. Punishment for murder.--Whoever commits murder shall be punished with death, or imprisonment for life , and shall also be liable to fine.

304. Punishment for culpable homicide not amounting to murder.--Whoever commits culpable homicide not amounting to murder shall be punished with 1*[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death. or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to

cause death, or to cause such bodily injury as is likely to cause death.

304A. Causing death by negligence.--Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

304B. Dowry death.

1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

306. Abetment of suicide.--If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

307. Attempt to murder.--Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life or to such punishment as is hereinbefore mentioned.
Attempts by life-convicts.

Illustrations (a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued A would be guilty of murder. A is liable to punishment under this section

(b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place A has committed the offence defined by this section, though the death of the child does not ensue.

308. Attempt to commit culpable homicide.

Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

309. Attempt to commit suicide.

309. Attempt to commit suicide.--Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year or with fine, or with both.

310. Thug.

Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a thug.**311. Punishment.**--Whoever is a thug, shall be punished with 2[imprisonment for life], and shall also be liable to fine. Of the causing of miscarriage, of injuries to unborn children, of the exposure of infants, and of the concealment of births.

312. Causing miscarriage.--Whoever voluntarily causes a woman with child to miscarry, shall if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.Explanation.-A woman who causes herself to miscarry, is within the meaning of this section.

319. Hurt.--Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

320. Grievous hurt.

The following kinds of hurt only are designated as "grievous":-

First.-Emasculation.

Secondly.-Permanent privation of the sight of either eye.

Thirdly.-Permanent privation of the hearing of either ear.

Fourthly.-Privation of any member or joint.

Fifthly.-Destruction or permanent impairing of the powers of any member or joint. Sixthly.-Permanent disfigurement of the head or face.

Seventhly.-Fracture or dislocation of a bone or tooth.

Eighthly.-Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to

follow his ordinary pursuits.

321. Voluntarily causing hurt.--Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt".

322. Voluntarily causing grievous hurt.--Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt".

339. Wrongful restraint.

Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person. Exception.-The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section. Illustration A obstructs a path along which Z has a right to pass. A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

340. Wrongful confinement.

Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person. Illustrations (a) A causes Z to go within a walled space, and locks Z. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines z. (b) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts leave the building. A wrongfully confines Z.

341. Punishment for wrongful restraint.--Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

342. Punishment for wrongful confinement.--Whoever wrongfully confines any person shall be punished with simple imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

349. Force.

A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in

one of the three ways hereinafter described:

First.-By his own bodily power.

Secondly.-By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.-By inducing any animal to move, to change its motion, or to cease to move.

350. Criminal force.

Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations (a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other action on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.

(b) Z is riding in a chariot. A lashes Z's horses and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

351. Assault.

Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.-Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations (a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating". Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

353. Assault or criminal force to deter public servant from discharge of his duty.--Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

354. Assault or criminal force to woman with intent to outrage her modesty.--Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

359. Kidnapping.

359. Kidnapping.--Kidnapping is of two kinds : kidnapping from India and kidnapping from lawful guardianship.

360. Kidnapping from India.--Whoever conveys any person beyond the limits of India without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from India

361. Kidnapping from lawful guardianship.

Whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship. Explanation.-The words "**lawful guardian**" in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.-This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

362. Abduction.

Whoever by force compels, or by any deceitful means induces any person to go from any place, is said to abduct that person.

363. Punishment for kidnapping.--Whoever kidnaps any person from 1*[India] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. .

378. Theft.--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 the 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 a 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 actually 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 either 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.

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(d) A being Z's servant, and entrusted by Z with the care of Z's plate,

dishonestly runs away with the plate, without Z's consent. A has committed theft.

(e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

380. Theft in dwelling house, etc.--Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

383. Extortion.

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

Illustrations (a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion. (b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A to Z signs and delivers the note. A has committed extortion. (c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

384. Punishment for extortion.--Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

390. Robbery.

In all robbery there is either theft or extortion. When theft is robbery. When theft is robbery.--Theft is "robbery" if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes 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. When extortion is robbery. When extortion is robbery.--Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person, so put in fear

then and there to deliver up the thing extorted. Explanation.-The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations (a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying-"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees". This is extortion, and punishable as such: but it is not robbery, unless Z is put in fear of the instant death of his child.

391. Dacoity.--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"

392. Punishment for robbery.--Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

403. Dishonest misappropriation of property.

Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations (a) A takes property belonging to Z out of Z's possession in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is

guilty of an offence under this section.

(b) A, being on friendly terms with Z, goes into Z's library in Z's absence and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(c) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.-A dishonest misappropriation for a time only is a misappropriation with the meaning of this section. Illustration A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security or a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

Illustrations (a) A finds a rupee on the high-road, not knowing to whom the rupee belong, A picks up the rupee. Here A has not committed the offence defined in this section.

(b) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(d) A sees Z drop his purse with money in it. A pick up the purse with the intention of restoring it to Z, bu afterwards appropriates it to his own use. A has committed an offence under this section.

405. Criminal breach of trust.

Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of 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".

Explanation 1 -A person, being an employer , who deducts the employees' contribution from to a Provident Fund or Family Pension Fund shall be deemed to have been entrusted with the amount of the contribution and if he makes default in the payment shall be deemed to have dishonestly used the amount.

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 a stipulated sum for warehouse-room. A dishonestly sells the goods. A has committed criminal breach of trust.

406. Punishment for criminal breach of trust. 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.

410. Stolen property.--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 without India But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen **property**.

411. Dishonestly receiving stolen property.--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 three years, or with fine, or with both.

415. Cheating.

Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

Explanation.-A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations (a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have

on credit goods for which he does not mean to pay. A cheats

(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(c) A, by exhibiting to Z a false sample of an article intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(e) A, by pledging as diamond articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

425. Mischief.

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 it injuriously, commits "mischief".

Explanation 1.-It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.
Explanation 2.-Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly. 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. (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.

426. Punishment for mischief.--Whoever commits mischief shall be punished with imprisonment of either description for a term which may

extend to three months, or with fine, or with both.

441. Criminal trespass.

Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".

442. House-trespass.

442. House-trespass.--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 a place for worship, or as a place for the custody of property, is said to commit "house-trespass".
Explanation.-The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. Lurking house-trespass.--Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person 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".

444. Lurking house-trespass by night.--Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night".

445. House-breaking.

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 if, 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 it in 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 by an abettor of the house-trespass.

Explanation.-Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

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 a 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 the door. This is house-breaking.

(f) A finds the key of Z's house door, which Z had lost, and commits house trespass 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.

446. House-breaking by night.--Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night".

463. Forgery.--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.

464. Making a false document.--A person is said to make a false document- **First.**-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 at 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 practised 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 rupees 10,000, written by Z. A, in order to defraud B, adds 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 ten thousand rupees. A commits forgery.

479. Property mark A mark used for denoting that movable property belongs to a particular person is called a property mark.

481. Using a false property mark.--Whoever marks any movable property or goods or any case, package or other receptacle containing movable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark. --Whoever uses any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with

fine, or with both.

483. Counterfeiting a property mark used by another.--Whoever counterfeits any property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

486. Selling goods marked with a counterfeit property mark.

Whoever sells, or exposes, or has in possession for sale, any goods or things with a counterfeit property mark] affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves 209 (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or (c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

494. Marrying again during lifetime of husband or wife. Bigamy

Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Exception.-This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge. .

497. Adultery.

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 of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor. **As per the I P C Amendment Bill 2009 the wife and the man are punishable for 2 years**

498. Enticing or taking away or detaining with criminal intent a married woman.--Whoever takes or entices away any 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 two years, or with fine, or with both.

498A. Husband or relative of husband of a woman subjecting her to cruelty. Added in 1983 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 three years and shall also be liable to fine Explanation.-For the purposes of this section, "cruelty" means- (a) any wilful conduct which is of such a 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.]

499. Defamation.

Whoever by words either spoken or intended to be read, or by signs or by visible representations, 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 defamation 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 person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers 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, or in a 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 fall 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 fall 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 stole B's watch. This is defamation, unless it fall within one of the exceptions.

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 a 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. Illustration It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.-Publication of reports of proceedings of courts- It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.-A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Fifth Exception.-Merits of case decided in Court or conduct of witnesses and others concerned. It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Illustrations (a) A says-"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther. (b) But if A says-"I do not believe what Z asserted at that trial because I know him to be a man without veracity"; A is not within this exception, inasmuch as the opinion which expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

Sixth Exception.-Merits of public performance.-It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no farther.

Explanation.-A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations (a) A person who publishes a book, submits that book to the judgment of the public. (b) A person who makes a speech in public, submits that speech to the judgment of the public. (c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public. 214 (d) A says of a book published by Z-"Z's book is foolish; Z must be a weak man. Z's book is indecent; Z must be a man of impure mind." A is within the exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further. (e) But if A says-"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh Exception.-Censure passed in good faith by person having lawful authority over another.-It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier- are within this exception.

Eighth Exception.-Accusation preferred in good faith to authorised person.-It is not defamation to prefer in good faith an accusation against

any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master ;if A in good faith complains of the conduct of Z, a child, to Z's father-A is within this exception.

Ninth Exception.-Imputation made in good faith by person for protection of his or other's interests.-It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good.

Illustrations (a) A, a shopkeeper, says to B, who manages his business-"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(b) A, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Tenth Exception.-Caution intended for good of person to whom conveyed or for public good.- It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

500. **Punishment for defamation.**--Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

503. Criminal intimidation.

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 resist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

509. **Word, gesture or act intended to insult the modesty of a woman.**--Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or

object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both. .

511. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.--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 the offence, shall, where no express provision is made by this Code 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

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