

**THE JAMMU AND KASHMIR STATE RANBIR PENAL CODE,
1989 (1932 A.D.)**

(Act No. XII of 1989)

[Sanctioned by His Highness the Maharaja Bahadur vide Law Department Notification No. 23-L/1989 dated 6th August, 1932/23rd Sawan, 1989 and published in Government Gazette dated 8th Poh, 1989.]

CHAPTER I

Introduction

Preamble. — Whereas it is expedient to provide a general Penal Code for Jammu and Kashmir State; It is enacted as follows: —

1. Title and extent of operation of the Code. — This Act shall be called the Jammu and Kashmir State Ranbir Penal Code, and shall take effect from 1st Har, 1989 throughout the ¹[Jammu and Kashmir State].

2. Punishment of offences committed within the ¹[State]. — Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within the ¹[State].

3. Punishment of offences committed beyond, but which by law may be tried within the ¹[State]. — Any person liable, by any law passed ²[x x x x] by the legislature of the State to be tried for an offence committed beyond the limits of the ¹[State] shall be dealt with according to the provisions of this Code for any act committed beyond the ¹[State] in the same manner as if such act has been committed within the ¹[State].

4. Extension of Code to extra-territorial offences. — The provisions of this Code apply also to any offence committed by any ³[permanent resident of the State] in any place without and beyond the Jammu and Kashmir State.

Explanation: — In this section the word “offence” includes every act committed outside ⁴[the State] which, if committed in ²[the State] would be punishable under this Code.

¹ Substituted by Act III of 1967.

² Words “His Highness the Maharaja Bahadur or” omitted by Act X of Svt. 2010. (For earlier amendment see Act X of Samvat 1996).

³ Substituted by A.L.O of Svt. 1967.

⁴ Substituted by Act III of 1967.

¹*[Illustration*

A, who is a permanent resident of the State, commits a murder outside the State. He can be tried and convicted of murder in any place in the State, in which he may be found.]

5. *Omitted.*

CHAPTER II

General Explanations

6. *Definitions in the Code to be understood subject to exceptions.*

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

Illustrations

(a) The sections in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception ³[S. 82 R.P.C.] which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police officer, without warrant apprehends Z who has committed murder. Here A is not guilty of the offence of wrongful confinement for he was bound by law to apprehend Z, and therefore the case falls within the general exception ³[S. 76 R.P.C.] which provides that “nothing is an offence which is done by a person who is bound by law to do it”.

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

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

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

¹ Inserted by Act III of 1967.

the plural number include the singular number.

10. *Man, Woman.* — The word “man” denotes a male human being of any age; the word “woman” denotes a female human being of any age.

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

12. *Public.* — The word “public” includes any class of the public or any community.

¹**13. *Omitted.***

²**13-A. *Omitted.***

³[**14. *Servant of Government.*** — The words “Servant of Government” denote any officer or servant continued, appointed or employed in the State by or under the authority of the Government.]

15. *Jammu and Kashmir State.* — The words “Jammu and Kashmir State” denote the territories ⁴[of the Jammu and Kashmir State which are or may become part of it.]

⁵[**16. *Government of India.*** — “Government of India” shall—

- (a) in relation to anything done before the commencement of the Constitution of India means the Governor General or the Governor General in Council, as the case may be; and
- (b) in relation to anything done or to be done after the commencement of the Constitution of India means, the President].

⁶[**17. *Government.*** — “Government” means the Government of Jammu and Kashmir State.]

18. *Omitted.*

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, and definitive judgment, or a

¹ Section 13 omitted by Act X of Svt. 2010.

² Section 13-A omitted by Act III of 1967.

³ Section 14 substituted *ibid*.

⁴ Substituted by Act X of Svt. 2010 for “which are or may be vested with His Highness the Maharaja Bahadur”.

⁵ Section 16 substituted by A.L.O of Svt. 2008.

⁶ Section 17 inserted by Act III of 1967. (It was omitted by Act X of Svt. 2010.)

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 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.

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

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

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

First.—Every Civil servant of ¹[the State];

²[*Second.*—Every Commissioned officer in the military, naval or air force of India;

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

Fourth.—Every officer of a Court of Justice ³[(including a liquidator, receiver or commissioner)] whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court; and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.—Every juryman, assessor or member of a panchayat assisting a

¹ Substituted by Act X of Svt. 2010 for “His Highness”.

² Substituted by Act III of 1967.

³ Inserted by Act III of 1967.

Court of Justice or public servant;

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

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

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

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of ¹[the Government] or to make any survey, assessment or contract on behalf of ²[the Government] or to execute any revenue-process, or to investigate or to report on any matter affecting the pecuniary interests of ²[the Government] or to make, authenticate or keep any document relating to the pecuniary interests of ²[the Government], or to prevent the infraction of any law for the protection of the pecuniary interests of ²[the Government], and every officer in the service or pay of ²[the Government], or remunerated by fees or commission for the performance of any public duty;

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

²[*Eleventh.*—Every servant under the Government of India who is posted, and when he is performing his legitimate duties, within the State;]

Twelfth.—Every servant of the Department of Devasthan;

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

³[*Fourteenth.*—Every officer or servant employed by a Municipal Committee, Town Area Committee, Notified Area Committee, Panchayat, Cooperative

¹ Substituted by Act X of Svt. 2010.

² Substituted by Act III of 1967.

³ Substituted for clause fourteenth by Act XXXI of 1963.

Society or Co-operative Bank whether for the whole or part of his time, and every member of such committee, society or bank;

Fifteenth.—Every officer or servant, and every member (by whatever name called) of a corporation engaged in trade or industry or of any other autonomous body which is established by an Act of the State Legislature or of a Government company as defined in any law for the time being in force in the State;]

¹[*Sixteenth.*—Every officer or servant including medical or para-medical staff of the Sher-i-Kashmir institute of Medical Sciences, Srinagar.]

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

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

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

²[*Explanation 4:* — The expression 'Corporation engaged in any trade or industry includes a banking, insurance or financial corporation.]

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

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

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

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

Losing 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.

¹ Inserted by Act XXVI of 2002, s. 2.

² Inserted by Act III of 1967.

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.

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

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

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

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

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

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

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

Explanation 1:—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

Illustrations

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

A cheque upon a banker is a document. A power of attorney is a document.

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

A writing containing directions or instructions is a document.

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

Illustration

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

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

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

Illustration

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

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

32. Words referring to acts include illegal omissions. — In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

33. Act, Omission. — The word “act” denotes as well a series of acts as a single

¹ Section 29-A inserted by Act V of 2001, s. 2.

² Words added by Act XI of 2014, s. 2.

act; the word “omission” denotes as well a series of omissions as a single omission.

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

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

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

Illustration

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

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

Illustrations

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

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

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

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

Illustration

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

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

Illustration

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

40. Offence. — Except in the Chapter and sections mentioned in clauses (2) and (3) of this section, the word “offence” denotes a thing made punishable by this Code.

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

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

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

42. *Local Law.* — A “local law” is a law applicable only to a particular part of the Jammu and Kashmir State.

43. *Illegal.* — The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil section; and

Legally bound to do.—A person is said to be “legally bound to do” whatever it is illegal in him to omit.

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

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

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

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

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

49. *Year, month.* — Wherever the word “year” or the word “month” is used, it is to be understood that the year or the month is to be reckoned according to the ¹[Gregorian Calendar].

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

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

52. *Good faith.* — Nothing is said to be done or believed in “good faith”

¹ Substituted by Act III of 1967.

which is done or believed without due care and attention.

52-A. Stamp. — The word “stamp” denotes every stamp issued by ¹[the Government] for revenue purposes.

²**52-B. 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 assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.

CHAPTER III

Of Punishments

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

Firstly—Death;

Secondly—Imprisonment, which is of two descriptions, namely: —

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

(2) Simple;

Thirdly—³Omitted;

Fourthly—Forfeiture of property;

Fifthly—Fine;

Sixthly—Imprisonment for life.

54. Commutation of sentence of death. — In every case in which sentence of death shall have been passed, ⁴[the Government] may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

55. Commutation of sentence of imprisonment for life. — In every case in which sentence of imprisonment for life shall have been passed ¹[the Government] may, without the consent of the offender, commute the punishment

¹ Substituted by Act X of Svt. 1996 for “His Highness the Maharaja Bahadur”.

² Section 52-B inserted by Act III of 1967.

³ Omitted by Act III of 1967.

⁴ Substituted *ibid* for “Sadar-i-Riyasat”.

for imprisonment of either description for a term not exceeding fourteen years.

56. *Omitted.*

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

58. *Omitted.*

59. *Omitted.*

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

¹**61.** *Omitted.*

²**62.** *Omitted.*

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

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

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

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

65. *Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.* — The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed

¹ Sections 61 and 62 omitted by Act III of 1967.

one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

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

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

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

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

Illustration

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

70. Fine leviable within six years, or during imprisonment; death not to

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

71. *Limit of punishment of offence made up of several offences.*— Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

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

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

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

Illustrations

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

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

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

73. Solitary confinement. — Whenever any person is convicted 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 shall not exceed one year;

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

74. Limits 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 be exceeded 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.

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

(a) by a Court in ¹[the State,] of any offence punishable under Chapter XII or Chapter XVII of this code with imprisonment of either description for a term of three years or upwards or

(b) ¹[by a Court in India outside the State] of an offence which would, if committed in Jammu and Kashmir State, have been punishable under those chapters of this Code with like imprisonment for the like term,

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

¹ Substituted by Act III of 1967.

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

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 a 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

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

(b) A, in a great fire, pulls down houses in order to prevent the configuration 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.

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. Offences requiring a particular intent or knowledge committed by one who is intoxicated. — In case 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.

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

Illustration

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

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

Illustration

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

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

Provided—

Firstly—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 of 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 facts 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

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

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

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

Illustration

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

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

Provided—

Firstly—That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

Secondly—That this exception shall not extend to the doing of anything, which

the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt or the curing of any grievous disease or infirmity;

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

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

Illustrations

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

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

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

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

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

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

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

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

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

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

Of the Right of Private Defence

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

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—

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

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

98. Right of private defence against the act of a person of unsound mind, etc. — When an act, which would otherwise be a certain offence is not

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

Illustrations

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

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

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

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

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1:— A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2:—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such

direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

100. *When the right of private defence of the body extends to causing death.* — The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely: —

Firstly.— Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly.— Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly.— An assault with the intention of committing rape;

Fourthly.— An assault with the intention of gratifying unnatural lust;

Fifthly.— An assault with the intention of kidnapping or abducting;

Sixthly.— An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release;

¹*[Seventhly.* —An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act].

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

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

103. *When the right of private defence of property extends to causing death.* — The right of private defence of property extends, under the

¹ Inserted by Act XI of 2014, s. 3.

restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong doer, if the offence, the committing of which, or the attempting to commit which occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated; namely: —

Firstly.—Robbery;

Secondly.—House-breaking by night;

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

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

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

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

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

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

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

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

breaking continues.

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

Illustration

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

CHAPTER V

Of Abetment

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

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

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

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

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

Illustration

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

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

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

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

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

Illustrations

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

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

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

Illustrations

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

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

(c) A instigates B to set fire to a dwelling-house, E, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act or that he is doing what is wrong or contrary to law, sets fire to the house in

consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to dwelling house, and is liable to the punishment provided for that offence.

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

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

Illustration

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

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

Illustration

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

108-A. *Abetment in Jammu and Kashmir State of offences outside the State.*
— A person abets an offence within the meaning of the Code who, in Jammu and Kashmir State, abets the commission of any act without and beyond Jammu and Kashmir State which would constitute an offence if committed in Jammu and Kashmir State.

Illustration

A, in Jammu and Kashmir State instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder.

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

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

Illustrations

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

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

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

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

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

directly abetted it:

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

Illustrations

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

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

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

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

Illustration

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

113. *Liability of abettor for an effect caused by the act abetted*

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

Illustration

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

114. *Abettor present when offence is committed.* — Whenever any person, who if absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

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

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

If act causing harm be done in consequence

Illustration

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

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

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

If abettor or person abetted be a public servant whose duty it is to prevent offence

Illustrations

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

(b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

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

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

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

Illustration

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

118. Concealing design to commit offence punishable with death or imprisonment for life. — Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or imprisonment for life, voluntarily conceals by any act or illegal omission, the existence of a design to commit such offence or makes any representation which he knows to be false respecting such design,

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

Illustration

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

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

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

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

or, if the offence be punishable with death or imprisonment for life, with imprisonment of either description for a term
If offence be punishable with death, etc.

which may extend to ten years;

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

Illustration

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

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

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

shall, if the offence be committed, be punished with imprisonment of the
If the offence be committed description provided for the offence, for a term which may extend to one-fourth,

and, if the offence be not committed, to one-eighth, of the longest term of
If offence be not committed such imprisonment, or with such fine as is provided for the offence, or with both.

CHAPTER V-A

Criminal Conspiracy

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

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

Provided that, no agreement except an agreement to commit an offence shall

amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

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

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

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

CHAPTER VI

Of Offences against the State

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

Illustration

A joins an insurrection against the Government of India. A has committed the offence defined in this section.

121-A. Conspiracy to commit offences punishable by section 121. — Whoever within the State or any other place within or without India conspires to commit any of the offences punishable by section 121 or conspires to overawe, by means of criminal force or the show of criminal force, the Government or the Government of India or any other State Government in India, shall be punished with imprisonment for life or with imprisonment of either description which may extend to ten years and shall also be liable to fine.

Explanation:— To constitute a conspiracy under this section it is not

¹ Sections 121 and 121-A substituted by Act III of 1967.

necessary that any act or illegal omission shall take place in pursuance thereof.]

122. *Collecting arms, etc., with intention of waging war against the Government or the Government of India.* — Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against ¹[x x x] the Government or ²[the Government of India], shall be punished with imprisonment for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

123. *Concealing with intent to facilitate design to wage war.* — Whoever, by any act, or by any illegal omission, conceals the existence of a design to wage war against ¹[x x x] the Government or the ²[Government of India], intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

³[**124.** *Assaulting President or Governor with intent to compel or restrain the exercise of any lawful power.* — Whoever, with the intention of including or compelling the President of India or the Governor of the State or of any other State to exercise or refrain from exercising in any manner any of the lawful powers of such President or Governor, assaults or wrongfully restrains, or attempts wrongfully to restrain or over-awes, by means of criminal force or the show of criminal force or attempts so to overawe, such President or Governor, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.]

⁴**124-A.** *Sedition.* — Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards ⁵[x x x] ⁶[the Governor] or the Government established by law in ¹[India] or

¹ Words omitted by Act III of 1967.

² Substituted by A.L.O. of Svt. 2008 for “King”.

³ Section 124 substituted by Act III of 1967.

⁴ For special procedure for trial of offences under this section see Notification No. 13-L/88 as amended by Act X of Svt. 1995 and Notification No. 14-L/88.

⁵ Words “His Majesty or” omitted by A.L.O of Svt. 2008.

⁶ Substituted by the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965.

in Jammu and Kashmir State, shall be punished with imprisonment for life to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

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

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

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

125. *Waging war against any Asiatic Power in alliance with the Government of India.* — Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the ²[Government of India] or attempts to wage such war, or abets the waging of such war, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

126. *Committing depredation of territories of Power at peace with the Government of India.* — Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the ¹[Government of India], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

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

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

¹ Substituted by A.L.O of Svt. 2008 for “British India”.

² Substituted by A.L.O. of Samvat 2008 for “King”.

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

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

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

Explanation:—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in Jammu and Kashmir State, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

¹[CHAPTER VII

Of Offences relating to Army, Navy and Air Force

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

Explanation:—In the section the words ‘Officer’, ‘soldier’, ‘sailor’, and

¹ Chapter VII substituted by Act III of 1967.

‘airman’ include any person subject to the Army Act, 1950, the Naval Discipline Act, ¹[the Indian Navy (Discipline) Act, 1934], the Air Force Act, 1950, as the case may be.

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

133. *Abetment of assault by soldier, sailor, or airman on his superior officer when in execution of his office.* — Whoever abets an assault by an officer, soldier, sailor or airman, in the Army, Navy or Air Force of the Government of India on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

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

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

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

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

137. *Omitted.*

¹ Now the Navy Act, 1957 (62 of 1957).

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

138-A. Omitted.

139. Persons subject to certain Acts. — No person subject to the Indian Army Act, 1950, ¹[the Indian Navy (Discipline) Act, 1934] or the Air Force Act, 1950, is subject to punishment under this Code for any of the offences defined in this Chapter.

140. Bearing garb or carrying token used by soldier, sailor or airman. — Whoever, not being a soldier, sailor or airman in the Military, Naval or Air Service of the Government of India wears any garb or carries any token resembling any garb or token used by such a soldier, sailor or airman with the intention that it may be believed that he is such a soldier, sailor or airman, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.]

CHAPTER VIII

Of Offences against the Public Tranquillity

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

First.—To overawe by criminal force, or show of criminal force, the Government ²[or the State Legislature] or any public servant in the exercise of the lawful power of such public servant; or

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

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

Fourth.—By means of criminal force, or show of criminal force, to any

¹ Now the Navy Act, 1957 (62 of 1957).

² Inserted by Act III of 1967.

person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession of enjoyment, or to enforce any right or supposed right; or

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

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

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

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

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

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

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

147. *Punishment for rioting.* — Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to ¹[three years] or with fine, or with both.

148. *Rioting armed with deadly weapon.* — Whoever is guilty of

¹ Substituted by Act XII of 1980, s. 2, for the words “two years”.

rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence ¹[is likely to cause death or grievous hurt, shall be punished with imprisonment which shall not be less than one year but may extend to five years and shall also be liable to fine.]

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

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

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

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

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

¹ Substituted by Act XII of 1980, s. 3.

shall be punished ¹[with imprisonment which shall not be less than one year but may extend to five years and shall also be liable to fine.]

153. Wantonly giving provocation with intent to cause riot. — Whoever malignantly, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence or rioting to be committed,

shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description, for a term which may extend to one year, or with fine, or with both;

If rioting be committed

and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

If not committed

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

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

shall be punished with imprisonment ³[which shall not be less than four years but may extend to ten years and shall also be liable to fine.]

⁴(c) organises any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that

¹ Substituted by Act XII of 1980, s. 4.

² Section 153-A substituted by Act XVII of 1970. (For earlier amendment see Act XXIV of 1961).

³ Substituted by Act XII of 1980, s. 5.

⁴ Inserted by Act X of 1983, s. 21.

the participants in such activity will use or be trained to use criminal force or violence or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community.]

(2) Offence committed in place of worship etc.: Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment ¹[which shall not be less than five years but may extend to ten years and shall also be liable to fine].

²[**153-B.** *Assertions etc. prejudicial to maintenance of harmony.* — (1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise, —

- (a) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or
- (b) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons, shall be punished with imprisonment which shall not be less than 4 years but may extend to 10 years and shall also be liable to fine.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremony, shall be punished with imprisonment which shall not be less than 4 years but may extend to 10 years and shall also be liable to fine.]

¹ Substituted by Act XII of 1980, s. 5.

² Inserted by Act X of 1983, s. 22.

154. *Owner or occupier of land on which an unlawful assembly is held.* — Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

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

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

157. *Harbouring persons hired for an unlawful assembly.* — Whoever harbours, receives or assembles in any house or premises in his occupation or charge, or under his control any persons, knowing that such persons have been hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term

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

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

and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a
or to go armed weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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

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

CHAPTER IX

Of Offences by or relating to Public Servants

161. *Public servant taking gratification other than legal remuneration in respect of an official act.* — Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with ¹[the Government or the State Legislature] or with any public servant, as such shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanation:—Expecting to be a public servant., If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office and that he will then serve them, he may be guilty of cheating, but he

¹ Substituted by Act III of 1967.

is not guilty of the offence defined in this section.

Gratification The word “gratification” is not restricted to pecuniary gratification, or to gratifications estimable in money.

Legal remuneration The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves, to accept.

A motive or reward for doing A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations

(a) A, a munsiff, obtains from Z, a banker, a situation in Z’s bank for A’s brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.

(b) A, holding the office of ¹[Consul in a foreign State], accepts a lakh of rupees from the Minister of that ¹[State]. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to ¹[that State] with the ²[x x x] Government. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to ¹[that State]. A has committed the offence defined in this section.

(c) A, a public servant, induces Z erroneously to believe that A’s influence with the Government has obtained a title for Z, and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

162. Taking gratifications in order, by corrupt or illegal means to influence public servant. — Whoever accepts or obtains, or agrees, to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or

¹ Substituted by Act III of 1967.

² Word “British” omitted by Act X of Samvat 2010.

disfavour to any person, or to render or attempt to render any service or disservice of any person with ¹[the Government of the State Legislature] or with any public servant, as such shall be punished with imprisonment of either description, for a term which may extend to three years, or with fine or with both.

163. *Taking gratification for exercise of personal influence with public servant.* — Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the ¹[Government or the State Legislature] or with any public servant, as such shall be punished with simple imprisonment for a term which may extend to one year, or with fine or with both.

Illustration

An advocate who receives a fee for arguing a case before a Judge, a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the service and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust, are not within this section, inasmuch as they do not exercise of profess to exercise personal influence.

164. *Punishment for abetment by public servant of offences defined in section 162 or 163.* — Whoever, being public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

Illustration

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine or with both.

165. *Public servant obtaining valuable thing without consideration, from person concerned in proceeding or business*

¹ Substituted by Act III of 1967.

transacted by such public servant. — Whoever being a public servant, accepts or obtains, or agrees, to accept or attempts to obtain, for himself, or for any other person any valuable thing without consideration, or for a consideration which he knows to be inadequate,

from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with ¹[imprisonment of either description for a term which may extend to three years], or with fine, or with both.

Illustration

(a) A, a collector, hires a house of Z, who has settlement case pending before him. It is agreed that A shall pay fifty rupees a month the house being such that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(b) A, a judge buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(c) Z's brother is apprehended and taken before A, a Magistrate on charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

²[**165-A. Punishment for abetment of offences defined in section 161 or section 165.** — Whoever abets any offence punishable under section 161 or section 165, whether or not that offences is committed in consequence of the abetment, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

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

¹ Substituted by Act III of 1958.

² Section 165-A inserted by Act III of 1958.

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

Illustration

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

¹[166A. Public servant disobeying direction under law. —Whoever, being a public servant, —

- (a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter; or
- (b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation; or
- (c) fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, Samvat 1989 (1933 A.D) in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509;

shall be punished with imprisonment for a term which may extend to one year and with fine.

166B. Punishment for non-treatment of victim. — Whoever, being incharge of a hospital, public or private, whether run by the Central Government, the State Government, Local Bodies or any other person, contravenes the provisions of section 545C of the Code of Criminal Procedure, Samvat 1989, shall be punished with imprisonment for a term which may extend to one year or with fine or with both].

167. Public servant framing an incorrect document with intent to

¹ Sections 166A and 166B inserted by Act XI of 2014, s. 4.

cause injury. — Whoever, being a public servant, and being, ¹[such public servant, charged with the preparation or translation of any document, or electronic record, frames, prepares or translates that document or electronic record] in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to ²[three years,] or with fine, or with both.

³[**167-A.** *Public servant knowingly authorising payment in respect of contracts for execution of a work or supply of goods when the work done or the goods supplied is not in accordance with the contract.* — Whoever, being a public servant competent to authorise payment on behalf of the Government or other public authority in respect of any contract for the supply of any goods or the execution of any work, authorises such payment, knowing, —

- (a) in the case of a contract for the supply of goods, that the contractor has supplied goods which are less in quantity than, or inferior in quality to, those he contracted to supply or which are, in any manner whatever, not in accordance with the contract, or
- (b) in the case of contract for the execution of any work, that the contractor has used materials, which are less in quantity than, or inferior in quality to those he contracted to use, or which are, in any manner whatever, not in accordance with the contract.

shall, in the absence of lawful excuse the burden of proving which shall be on him, be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation:—In this section, ‘public authority’ means, —

- (a) a corporation established by or under a Central or State Act;
- (b) a Government company as defined in section 617 of the Companies Act, 1956; and
- (c) a local authority.]

¹ Substituted by Act V of 2001, s. 3.

² Substituted by Act III of 1967.

³ Section 167-A inserted by Act IX of 1983, s. 19.

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

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

170. *Personating a public servant.* — Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description, for a term which may extend to ¹[two years,] or with fine, or with both.

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

CHAPTER IX-A

Of Offences Relating to Elections

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

- (a) “candidate” means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat; provided that he is subsequently nominated as a candidate at such election;

¹ Substituted by Act III of 1967.

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

171-B. Bribery. — (1) Whoever—

- (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or
- (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery:

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

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

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

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

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

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

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

(3) A declaration of public policy or a promise of public action, or the

mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference with the meaning of this section.

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

¹[Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy of an elector under any law for the time being in force in so far as he votes as a proxy for such elector].

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

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

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

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

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

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

Provided that if any person having incurred any such expenses not

¹ Proviso added by Act No. IX of 2014, s. 30.

exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

171-1. *Failure to keep election accounts.* — Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts, shall be punished with fine which may extend to five hundred rupees.

CHAPTER X

Of Contempts of the lawful authority of Public Servants

172. *Absconding to avoid service of summons or other proceeding.*— Whoever absconds in order to avoid being served with summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons or notice or order is to attend in person or by agent, or to ¹[produce a document or an electronic record] in the Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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

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

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

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

¹ Substituted by Act V of 2001, s. 4.

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or ¹[to produce a document or an electronic record] in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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

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

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

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

Illustrations

(a) A, being legally bound to appear before the High Court of Judicature, Jammu and Kashmir State, in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.

(b) A, being legally bound to appear before a Sub-Judge, as a witness, in obedience to a summons issued by that Sub-Judge, intentionally omits to appear. A has committed the offence defined in this section.

175. *Omission to produce document to public servant by person legally bound to produce it.* — Whoever, being legally bound to produce or deliver up any ²[document or any electronic record] to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with

¹ Substituted by Act V of 2001, s. 5.

² Substituted by Act V of 2001, s. 6.

simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees or with both;

or, if the ¹[document or an electronic record] is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration

A, being legally bound to produce a document before a ¹[District Court], intentionally omits to produce the same. *A* has committed the offence defined in this section.

176. *Omission to give notice or information to public servant by person legally bound to give it.* — Whoever, being legally bound to give any notice or furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

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

²[or, if the notice or information required to be given is required by an order passed under sub-section (1) of section 565 of the Code of Criminal Procedure, Samvat 1989, with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

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

¹ Substituted by A.L.O of Samvat 2008 for “Zilla Courts”.

² Inserted by Act III of 1967.

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

Illustrations

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

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

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

178. *Refusing oath or affirmation when duly required by public servant to make it.* — Whoever, refuses to bind himself by an oath or affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

179. *Refusing to answer public servant authorised to question.* — Whoever, being legally, bound to state the truth, on any subject to any public servant, refuses to answer any question demanded of him touching that subject

by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

180. Refusing to sign statement. — Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to ¹[three months,] or with fine which may extend to ¹[five hundred rupees,] or with both.

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

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

- (a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or
- (b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations

- (a) A informs a Magistrate that Z, a police-officer subordinate to such

¹ Substituted by Act III of 1967.

Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

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

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

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

184. *Obstructing sale of property offered for sale by authority of public servant.* — Whoever, intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine or with both.

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

186. *Obstructing public servant in discharge of public functions.*— Whoever, voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term

which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

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

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

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

shall if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished ¹[with imprisonment which may extend to one year and shall also be liable to fine],

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished ¹[with imprisonment which shall not be less than three months but may extend to two years and shall also be liable to fine.]

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

Illustration

¹ Substituted by Act XII of 1980, s. 6.

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

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

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

¹[**190-A. Dissemination of contents of prescribed documents.** — (1) Whoever, publishes, circulates or repeats in public any passage from a newspaper, book or other document, copies whereof have been declared to be forfeited to the Government under any law for the time being in force, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of an offence punishable under this section unless the Chief Minister has certified that the passage published, circulated or repeated contains in the opinion of the Chief Minister, seditious or other matter of the nature referred to in sub-section (1) of section 99-A of the Code of Criminal Procedure, or sub-section, (1) of section 10 of the Jammu and Kashmir State Press and Publications Act No. 1 of 1989.]

CHAPTER XI

Of False Evidence and Offences against Public Justice

191. Giving false evidence. — Whoever, being legally bound by an oath or

¹ Section 190-A inserted by Act I of Samvat 1993.

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

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

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

Illustrations

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

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the hand-writing of Z, when he does not believe it to be the hand-writing of Z. Here A states that which he knows to be false, and therefore gives false evidence.

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

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

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

192. Fabricating false evidence. — Whoever causes any circumstance to exist or ¹[makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement] intending

¹ Substituted by Act V of 2001, s. 7.

that such circumstance, false entry or false statement may appear in evidence in a judicial proceedings, or in a proceeding taken by law before a public servant as such, or before an arbitrator and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said to fabricate false evidence.

Illustrations

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

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

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

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

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

Explanation 1:—A trial before a Court-martial is a judicial proceeding.

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

Illustration

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

given false evidence.

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

Illustration

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

194. *Giving or fabricating false evidence with intent to procure conviction of capital offence.* — Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by the law of Jammu and Kashmir State, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

If an innocent person be thereby committed and executed and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence, shall be punished either with death or the punishment hereinbefore described.

195. *Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment.*— Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by the law of Jammu and Kashmir State, is not capital, but punishable with imprisonment for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration

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

¹[**195A.** *Threatening or inducing any person to give false evidence.* — Whoever—

- (i) threatens any person with any injury to the person, reputation or property or to the person or reputation of any one in whom that person is interested; or
- (ii) induces any person through any means, to cause such person to give false evidence,

shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.]

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

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

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

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

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

¹ Section 195-A inserted by Act IX of 2007, s. 2.

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

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

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

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

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

Illustration

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

202. *Intentional omission to give information of offence by person bound to inform.* — Whoever, knowing or having reason or believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to ¹[six months] or with fine, or with both.

¹ Substituted by Act III of 1967.

203. *Giving false information respecting an offence committed.* — Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to ¹[two years,] or with fine, or with both.

Explanation.—In sections 201 and 202 and in this section the word “offence” includes any act committed at any place out of ¹[the State] which, if committed in ¹[the State] would be punishable under any of the following sections namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

204. *Destruction of document to prevent its production as evidence.* — Whoever secretes or destroys any ¹[document or electronic record] which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such ²[document or electronic record] with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to ²[two years] or with fine, or with both.

³[**204-A.** Whoever destroys, cancels, defaces or obliterates or renders illegible or attempts to destroy, cancel, deface, obliterate or render illegible that whole of any part of a document with the intention of preventing such documents from being produced or used as evidence in any Court of Law or in any proceedings lawfully held before a public servant, shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.]

205. *False personation for purpose of act or proceeding in suit or prosecution.* — Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to ⁴[three years], or with fine, or with

¹ Substituted by Act V of 2001, s. 8.

² Substituted by Act III of 1967.

³ Section 204-A inserted by Act VII of 1967.

⁴ Substituted for “one year” by Notification No. 6-L/1980 dated 12th March, 1924.

both.

206. *Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.* — Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to ¹[two years,] or with fine, or with both.

207. *Fraudulent claim to property to prevent its seizure as forfeited or in execution.* — Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practices any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as s forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to ²[two years,] or with fine, or with both.

208. *Fraudulently suffering decree for sum not due.* — Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to ¹[two years], or with fine, or with both.

Illustration

A institutes a suit against Z. Z knowing that A is likely to obtain a decree

¹ Substituted by Act III of 1967.

² Substituted by Act III of 1967.

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

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

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

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

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

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

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

If a capital offence

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

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

“Offence” in this section includes any act committed at any place out of Jammu and Kashmir State, which if committed in Jammu and Kashmir State, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in Jammu and Kashmir State.

¹[*Exception.*—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.]

Illustration

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

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

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to
If a capital offence ¹[seven years] and shall also be liable to fine;

and if the offence is punishable with imprisonment for life or with imprisonment
If punishable with imprisonment for life, or with imprisonment

Substituted by Act III of 1967.

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

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

214. Offering gift or restoration of property in consideration of screening offender. — Whoever gives or cause, or offers or agrees to give or cause, any gratification to any person or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment;

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to ¹[seven years] and shall also be liable to fine;

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

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

Exception.—The provisions of sections 213 and 214 do not extend to any case on which the offence may lawfully be compounded.

Illustrations – Repealed.

215. Taking gift to help to recover stolen property, etc. — Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall

¹ Substituted by Act III of 1967.

have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to ¹[two years,] or with fine, or with both.

216. Harbours offender who has escaped from custody or whose apprehension has been ordered. — Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention or preventing him from being apprehended, shall be punished in the manner following, that is to say;

If the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of *If a capital offence* either description for a term which may extend to seven years, and shall also be liable to fine;

If the offence is punishable with imprisonment for life, or imprisonment for *If punishable with imprisonment for life or with imprisonment* ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine;

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

“Offence” in this section includes also any act or omission of which a person is alleged to have been guilty out of Jammu and Kashmir State, which, if he had been guilty of it in Jammu and Kashmir State, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in Jammu and Kashmir State; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in Jammu and Kashmir State.

¹ Substituted by Act III of 1967.

¹[*Exception.*— This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.]

216-A. *Penalty for harbouring robbers or dacoits.* — Whoever knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours, them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Exception.—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed or has been committed, within or without Jammu and Kashmir State.

²[*Explanation.*—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.]

³**216-B. *Omitted.***

217. *Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.* — Whoever, being public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

218. *Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.* — Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to

¹ Substituted by Act III of 1967.

² Substituted *ibid.*

³ Section 216-B omitted *ibid.*

any persons, or with intent thereby to save or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

219. *Public servant in judicial proceeding corruptly making report etc., contrary to law.* — Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be, contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

220. *Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.* — Whoever, being in any office which gives him legal authority to commit person for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

¹[**221.** *Intentional omission to apprehend on the part of public servant bound to apprehend.* — Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say: —

with imprisonment of either description for a term which may extend to seven years, or with or without fine, if the person in confinement, or who ought to have been apprehended was charged with, or liable to be apprehended for, an offence punishable with death; or

with imprisonment of either description for a term which may extend to three years, or with or without fine, if the person in confinement, or who ought to

¹ Section 221 substituted by Act III of 1967.

have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for life or imprisonment for a term which may extend to ten years; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.].

222. *Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.* — Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence or lawfully committed to custody, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say: —

with imprisonment for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to imprisonment for life, or imprisonment for a term of ten years or upwards; or

with imprisonment of either description for a term which may extend to three years, or with fine or with both if the person in confinement, or who ought to have been apprehended is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years or if the person was lawfully committed to custody.

223. *Escape from confinement or custody negligently suffered by public servant.* — Whoever, being a public servant, legally bound as such public servant to keep in confinement any person charged with or convicted of any offence or lawfully committed to custody, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

224. *Resistance or obstruction by a person to his lawful apprehension.* — Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully, detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to ¹[two years,] or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

225. *Resistance or obstruction to lawful apprehension of another person.* — Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

or, if the person to be apprehended, or the person rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with imprisonment for life or imprisonment for a term which may extend to ten years, and shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation, of such sentence, to imprisonment for life, or imprisonment for a term often years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with imprisonment for life or imprisonment of either description for a term not exceeding ten years and

¹ Substituted by Act III of 1967.

shall also be liable to fine.

225-A. *Omission to apprehend or sufferance of escape, on part of public servant, in cases not otherwise provided for.* — Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222, or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished, —

- (a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and
- (b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

225-B. *Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.* — Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force intentionally offers any resistance for illegal obstruction to the lawful apprehension of himself or of any other person, or escapes, or attempts to escape from any custody in which he is lawfully detained or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

226. *Omitted.*

227. *Violation of condition of remission of punishment.* — Whoever having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

228. *Intentional insult or interruption to public servant sitting in judicial proceeding.* — Whoever intentionally offers any insult, or causes, any interruption to any public servant while such public servant is sitting in any stage of judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

¹[**228-A. Disclosure of identity of the victim of certain offences etc.**— (1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under ²[section 376, 376A, 376B, 376C, 376D or 376E] is alleged or found to have been committed (hereinafter in this section referred to as the “victim”) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

(2) Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the identity of the victim if such printing or publication is—

- (a) by or under the order in writing of the officer in charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or
- (b) by or with the authorisation in writing of the victim; or
- (c) Where the victim is dead or minor or of unsound mind, by, or with the authorisation in writing of the next of kin of the victim:

Provided that no such authorisation shall be given by the next of kin to anybody other than the Chairman or the Secretary by whatever name called of any recognized welfare institution or organisation.

Explanation:—For the purposes of this sub-section recognized welfare institution or organisation means a social welfare institutions or organisation recognized in this behalf by Central or State Government.

(3) Whoever prints or publishes any matter in relation to any proceeding before the court with respect to an offence referred to in sub-section (1) without the previous permission of such court shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Explanation:—The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.]

229. Personation of a juror or assessor. — Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned,

¹ Section 228-A inserted by Act XXVI of 1988, s. 2, w. e. f. 5-9-1986.

² Substituted by Act XI of 2014, s. 5.

empanelled or sworn as a juryman or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XII

Of Offences Relating to Coin and Government Stamps

230. “Coin” defined. — Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.

Indian coin ¹[Indian coin is metal stamped and issued by the authority of the Government of India in order to be used as money; and metal, ²[which has been] so stamped and issued shall continue to be Indian coin for the purpose of this Chapter, notwithstanding that it may have ceased to be used as a money.]

Illustrations

- (a) Cowries are not coin.
- (b) Lumps of unstamped copper, though used as money, are not coin.
- (c) Medals are not coin, inasmuch as they are not intended to be used as money.
- (d) The coin denominated as the company's rupee is ³[Indian coin].
- (e) The “Farukhabad” rupee, which was formerly used as money under the authority of Government of India, is ³[India coin] although it is no longer so used.

231. Counterfeiting coin. — Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years,

¹ Second paragraph of section 230 substituted by A.L.O of Svt. 2008.

² Substituted by Act III of 1967.

³ Substituted by A.L.O. of Samvat 2008 for “King’s coin”.

and shall also be liable to fine.

Explanation:—A person commits this offence, who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

232. Counterfeiting Indian coin. — Whoever counterfeits or knowingly performs any part of the process of counterfeiting the ¹[Indian coin] shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

233. Making or selling instrument for counterfeiting coin.— Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instruments, for the purpose of being used, or knowing or having reason or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also, be liable to fine.

234. Making or selling instrument for counterfeiting Indian coin.— Whoever makes, mends, or performs any part of the process of making or mending, or buys, sells or disposes, of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that is intended to be used, for the purpose of counterfeiting ²[Indian coin], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

235. Possession of instrument or material for the purpose of using the same for counterfeiting coin. — Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the coin to be counterfeited is ¹[Indian coin], shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

236. Abetting in the State counterfeiting out of the State of coin. — Whoever, being within Jammu and Kashmir State, abets the counterfeiting of

¹ Substituted *ibid*.

² Substituted by A.L.O. of Samvat 2008.

coin out of Jammu and Kashmir State, shall be punished in the same manner as if he abetted the counterfeiting of such coin within Jammu and Kashmir State.

237. *Import or export of counterfeit coin.* — Whoever, import into Jammu and Kashmir State, or exports therefrom, any counterfeit coin, knowingly or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

238. *Import or export of counterfeits of Indian coin.* — Whoever, imports into Jammu and Kashmir State, or exports, therefrom, any counterfeit coin, which he knows or has reason to believe to be a counterfeit of ¹[Indian coin], shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

239. *Delivery of coin possessed with knowledge that it is counterfeit.*— Whoever, having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

240. *Delivery of Indian coin, possessed with knowledge that it is counterfeit.* — Whoever, having any counterfeit coin, which is a counterfeit of ²[Indian coin] and which, at the time when he became possessed of it he knew to be a counterfeit of ¹[Indian coin], fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

241. *Delivery of coins as genuine which, when first possessed the deliverer did not know to be counterfeit.* — Whoever, delivers to any other person as genuine, or attempts to induce any other person to receive as genuine any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

¹ Substituted by A.L.O. of Samvat 2008 for “King’s coin”.

² Substituted by A.L.O. of Svt. 2008 for “King’s coin”.

Illustration

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them B sells the rupees to C, another utterer, who buys, them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

242. *Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.* — Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

243. *Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.* — Whoever, fraudulently or with intend that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of ¹[Indian coin], having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

244. *Omitted.*

245. *Omitted.*

246. *Fraudulently or dishonestly diminishing weight or altering composition of coin.* — Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation:—A person who scops out part of the coin and puts any thing else into the cavity alters the composition of that coin.

247. *Fraudulently or dishonestly diminishing weight or altering composition of Indian coin.* — Whoever, fraudulently or dishonestly performs

¹ Substituted by A.L.O. of Svt. 2008 for “King’s coin”.

on ¹[any Indian coin] any operation which diminishes the weight or alters the composition of that coin shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

248. *Altering appearance of coin with intent that it shall pass as coin of different description.* — Whoever, performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

249. *Altering appearance of Indian coin with intent that it shall pass as coin of different description.* — Whoever performs on ¹[any Indian coin] any operation which alters the appearance of that coin with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years,, and shall also be liable to fine.

250. *Delivery of coin, possessed with knowledge that it is altered.*— Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

251. *Delivery of Indian coin possessed with knowledge that it is altered.* — Whoever, having coin in his possession with respect to which the offence defined is section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

252. *Possession of coin by person who knew it to be altered when he became possessed thereof.* — Whoever, fraudulently or with intent that fraud

¹ Substituted by A.L.O. of Svt. 2008 for “King’s coin”.

may be committed, is in possession of coin with respect to which the offence defined in either of the sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

253. *Possession of Indian coin by person who knew it to be altered when he became possessed thereof.* — Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

254. *Delivery of coin as genuine which, when first possessed, the deliverer did not know to be altered.* — Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in sections 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

255. *Counterfeiting Government stamp.* — Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government ¹[x x x x] for the purpose of revenue, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation:—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

¹ Words “or by His Highness” omitted by Act X of Samvat 2010.

256. *Having possession of instrument or material for counterfeiting Government stamp.* — Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government ¹[x x x] for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

257. *Making or selling instrument for counterfeiting Government stamp.* — Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government ¹[x x x] for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

258. *Sale of counterfeit Government stamp.* — Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government ¹[x x x] for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

259. *Having possession of counterfeit Government stamp.*— Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government ¹[x x x] for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

260. *Using as genuine a Government stamp known to be counterfeit.*— Whoever, uses as genuine any stamp knowing it to be counterfeit of any stamp issued by Government ¹[x x x] for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

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

¹[x x x] removes or effaces from any substance, bearing any stamp issued by Government ¹[x x x] for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

262. *Using Government stamp known to have been before used.* — Whoever, fraudulently or with intent to cause loss to the Government ²[x x x], uses for any purpose a stamp issued by Government ¹[x x x] for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

263. *Erasure of mark denoting that stamp has been used.* — Whoever, fraudulently or with intent to cause loss to Government, ²[x x x] erases or removes from a stamp issued by Government ¹[x x x] for the purpose of revenue any mark, put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes or any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

263-A. *Prohibition of fictitious stamps.* — (1) Whoever—

- (a) makes knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or
- (b) has in his possession, without lawful excuse, any fictitious stamp, or
- (c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

(2) Any such stamp die, plate, instrument or materials in the possession any person for making any fictitious stamp ³[may be seized, and if seized] shall be forfeited.

¹ Words “or by His Highness” omitted by Act X of Samvat 2010.

² Words “to His Highness” omitted *ibid*.

³ Substituted by Act III of 1967.

(3) In this section ‘fictitious stamp’ means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for the purpose.

(4) In this section and also in sections 255 to 263, both inclusive, the word “Government” when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorised by law to administer executive government in any part of India, and also in any part of His Majesty’s dominions or in any foreign country.

CHAPTER XIII

Of Offences Relating to Weights and Measures

264. *Fraudulent use of false instrument for weighing.* — Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

265. *Fraudulent use of false weight or measure.* — Whoever, fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

266. *Being in possession of false weight or measure.* — Whoever is in possession of any instrument for weighing, or any weight, or of any measure of length or capacity, which he knows to be false, ¹[x x x] intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

267. *Making or selling false weight or measure.* — Whoever makes, sells or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIV

¹ Words omitted by Act III of 1967.

Of Offences Affecting the Public Health, Safety, Conveyance, Decency and Morals

268. *Public nuisance.* — A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. *Negligent act likely to spread infection of disease dangerous to life.* — Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

270. *Malignant act likely to spread infection of disease dangerous to life.* — Whoever maliciously does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to ¹[two years,] or with fine, or with both.

271. *Disobedience to quarantine rule.* — Whoever knowingly disobeys any rule made and promulgated by the Government of India, or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

272. *Adulteration of food or drink intended for sale.* — Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

273. *Sale of noxious food or drink.* — Whoever, sells, or offers or

¹ Substituted by Act III of 1967 for “six months”.

exposes for a sale, as food or drink any article which has been rendered or has become noxious, or is in a state unfit for food or drink knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

274. *Adulteration of drugs.* — Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it has not undergone such adulteration shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

275. *Sale of adulterated drugs.* — Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

276. *Sale of drug as a different drug or preparation.* — Whoever, knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

277. *Fouling water of public spring or reservoir.* — Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to ¹[three months,] or with fine which may extend to five hundred rupees, or with both.

278. *Making atmosphere noxious to health.* — Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a

¹ Substituted by Act III of 1967.

public way, shall be punished with fine which may extend to ¹[five hundred rupees].

279. *Rash driving or riding on a public way.* — Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

280. *Rash navigation of vessel.* — Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

281. *Omitted.*

282. *Conveying person by water for hire in unsafe or overloaded vessel.* — Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

283. *Danger or obstruction in public way or line of navigation.* — Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, ²[shall be punished with fine which may extend to two hundred rupees.]

284. *Negligent conduct with respect to poisonous substance.* — Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person,

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance,

¹ Substituted by Act III of 1967.

² Substituted by Act III of 1967.

shall be punished with imprisonment of either description for a term which extend to six months, or with fine may extend to one thousand rupees, or with both.

285. *Negligent conduct with respect to fire or combustible matter.*

— Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

286. *Negligent conduct with respect to explosive substance.* —

Whoever does with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

287. *Negligent conduct with respect to machinery.* —

Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person;

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment of either description for a term which may extend to six months, ¹[or with fine which may extend to one thousand rupees,] or with both.

288. *Negligent conduct with respect to pulling down or repairing buildings.* — Whoever, in pulling down or repairing any building, knowingly

¹ Substituted by Act III of 1967 for “or with fine”.

or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

289. *Negligent conduct with respect to animal.* — Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

290. *Punishment for public nuisance in cases not otherwise provided for.* — Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

291. *Continuance of nuisance after injunction to discontinue.* — Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance shall be punished with simple imprisonment for a term which may extend to six months or with fine, or with both.

¹[**291-A.** *Punishment for wrongful obstruction to the use of public tanks wells etc.* — Whoever voluntarily obstructs any person from using the water of any well, tank or other source of water supply which is of a public nature and over which no person or class of persons has any exclusive right of ownership or enjoyment, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.]

²[**292.** *Sale, etc., of obscene books, etc.* — Whoever,—

- (a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution or circulation makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or

¹ Section 291-A inserted by Act IX of Samvat 1996.

² Section 292 substituted by Notification No. 16-L of 1983 published in Government Gazette dated 29th Bhadon, 1983.

any other obscene object whatsoever, or

- (b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or
- (c) takes part in or receives profits from any business in course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or
- (e) offers or attempts to do any act which is an offence under this section,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This section does not extend to any book, pamphlet, writing, drawing or painting, kept or used bona fide for religious purposes or any representation sculptured, engraved, painted or otherwise represented on or in any temple or in any car used for the conveyance of idols, or kept or used for any religious purpose.]

¹[**293. Sale, etc. of obscene objects to young person.** — Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

294. Obscene acts and songs. — Whoever, to the annoyance of others,—

- (a) does any obscene act in any public place, or
- (b) sings, recites or utters any obscene songs, ballad or words, in or

¹ Section 293 substituted by Notification No. 16-L of 1983 published in Government Gazette dated 29th Bhadon, 1983.

near any public place,

¹[shall be punished with imprisonment of either description for a term of six months which may extend to three years and shall also be liable to fine].

294-A. Keeping lottery office. — Whoever keeps any office or place for the purpose of drawing any lottery ²[not being a State Lottery or a lottery authorised by the Government, the Government of India or the Government of any other State in India,] shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any persons, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure, in any such lottery, shall be punished with fine which may extend to one thousand rupees.

CHAPTER XV

Of Offences Relating to Religion

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 ³[with imprisonment which shall not be less than two years but may extend to five years and shall also be liable to fine].

⁴[**295-A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.** — Whoever, with deliberate and malicious intention of outraging the religious feelings of ⁵[any class of citizens of India] ⁶[by words either spoken or written or by signs or by visible representations, or otherwise] insults or attempts

¹ Substituted by Act XI of 2014, s. 6. (For earlier amendment see Act III of 1967).

² Substituted *ibid*.

³ Substituted by Act XII of 1980, s. 7.

⁴ Section 295-A inserted by Act II of Samvat 1989.

⁵ Substituted by Act III of 1967.

⁶ Substituted by Act XXIV of 1961.

to insult the religion or the religious beliefs of that class, shall be punished ¹[with imprisonment which shall not be less than five years but may extend to ten years and shall also be liable to fine].

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 ²[with imprisonment which shall not be less than five years but may extend to ten years and shall also be liable to fine.]

297. *Trespassing on burial places, etc.* — Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

commits any trespass in any place or worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished ³[with imprisonment which shall not be less than five years but may extend to ten years and shall also be liable to fine].

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 words 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 ⁴[with imprisonment which shall not be less than two years but may extend to five years and shall also be liable to fine].

298-A. *Voluntarily slaughtering or Killing cow or the like animals.* — Whoever voluntarily slaughters or kills any bovine animal ⁵[whether domesticated or wild], such as an ox, bull, cow or calf, shall be punished with imprisonment of either description which may extend to ten years, and shall also be liable to fine.

¹ Substituted by Act XII of 1980, s.8.

² Substituted *ibid*, s. 9.

³ Substituted by Act XII of 1980, s. 10.

⁴ Substituted *ibid*, s. 11.

⁵ Inserted by Notification No. 8-A/L of 1984 published in Government Gazette dated 6th Assuj, 1984.

¹[*Explanation*:—The expression “bovine animal” does not include a Gond.]

298-B. *Keeping in possession flesh of killed or slaughtered animals as mentioned in section 298-A.* — Whoever keeps in his possession flesh of any slaughtered animal mentioned in section 298-A above, knowing it or having reasons to believe that the flesh is of such an animal, shall be punished either imprisonment of either description for a term which may extend to one year and shall also be liable to fine which may extend to five hundred rupees.

298-C. *Killing or slaughtering he or she buffalo.* — Whoever voluntarily slaughters or kills any he or she buffalo shall be punished with fine which may extend to five times the price of the animal killed or slaughtered as determined by the Court.

298-D. Whoever—

- (a) sells or has in his possession any untanned hide or meat or flesh of a Gond, or
- (b) brings into or has in his possession, within any town, the carcass of a Gond,

shall be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both.

Explanation:—The word “town” for the purposes of clause (b) means a town or a locality which for the time being, is the headquarters of a Tehsil.

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

¹ Explanation substituted by Notification No. 8-A/L of 1984 published in Government Gazette dated 6th Assuj, 1984.

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 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—

Secondly—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—

Thirdly—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—

Fourthly—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 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.

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.

(e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage, A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of 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. Z draws out a pistol. A 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.

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 causing death of person other than persons 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.

303. *Punishment for murder by life convicts.* — Whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death.

304. *Punishment for culpable homicide not amounting to murder.* — Whoever commits culpable homicide not amounting to murder, shall be

punished with imprisonment for life, or imprisonment of either description for a term which may extend to ¹[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.

304-A. *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 ²[for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine]:

³[Provided that where the death is caused by rash or negligent act by a person driving a motor vehicle without holding a driving licence, the minimum imprisonment under this section shall be two years.]

⁴[304-B. *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.

Explanation 1: - For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Restraint Act, 1960 A.D.

Explanation 2 : - For the purpose of this sub-section, “cruelty” shall have the same meaning as in section 498-A of this Code.

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life].

305. *Abetment of suicide of child or insane person.* — If any person under

¹ Substituted by Act III of 1967.

² Substituted by Act V of 1977, s. 2.

³ Proviso inserted *ibid*.

⁴ Section 304-B inserted by Act XI of 2014, s. 7.

eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide shall be punished with death or imprisonment for life, or imprisonment for a term not exceeding ¹[ten years,] and shall also be liable to fine.

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.

When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

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.

(c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of the first paragraph of this section.

(d) A, intending to murder Z, by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the

¹ Substituted by Act III of 1967.

offence in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

308. *Attempts 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 ¹[seven years,] or with fine, or with both.

Illustration

A, on grave and sudden provocation, fires pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offences defined in this section.

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.

²[**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 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 Birth

312. *Causing miscarriage.* — Whoever voluntarily causes a woman with child to miscarry, shall if such miscarriage be not caused in good faith for

¹ Substituted by Act III of 1967.

² Sections 310 and 311 inserted by Act III of 1967.

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.

313. *Causing miscarriage without woman's consent.* — Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

314. *Death caused by act done with intent to cause miscarriage.* — Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, 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 the act is done without the consent of the woman, shall be punished
If act done without woman's consent either with imprisonment for life, or with the punishment above, mentioned.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

315. *Act done with intent to prevent child being born alive or to cause it to die after birth.* — Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving of the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

316. *Causing death of quick unborn child by act amounting of culpable homicide.* — Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and

shall also be liable to fine.

Illustration

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

317. *Exposure and abandonment of child under twelve years, by parent or person having care of it.* — Whoever being the father or mother of child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation:—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

318. *Concealment of birth by secret disposal of dead body.*—Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to ¹[two years,] or with fine, or with both.

Of Hurt

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.

¹ Substituted by Act III of 1967.

Fifthly—Destruction or permanent impairing of the powers of any member or joint.

Sixthly—Permanent disfiguration of the head or face.

Seventhly—Fracture or dislocation of a bone or a 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”.

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration

A, intending or knowing himself to be likely permanently to disfigure Z’s face, gives Z a blow which does not permanently disfigure Z’s face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. *Punishment for voluntarily causing hurt.* — Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with 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.

324. *Voluntarily causing hurt by dangerous weapons or means.* — Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument, which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive

substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

325. *Punishment for voluntarily causing grievous hurt.* — Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

326. *Voluntarily causing grievous hurt by dangerous weapons or means.* — Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

¹[326A. *Voluntarily causing grievous hurt by use of acid, etc.* – Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life and with fine which may extend to ten lakh rupee:

Provided that any fine imposed under this section shall be given to the person on whom acid was thrown or to whom acid was administered.

326B. *Voluntarily throwing or attempting to throw acid, etc.* - Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a

¹ Sections 326A and 326B inserted by Act XI of 2014, s. 8.

term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

Explanation 1: - For the purposes of section 326A and this section, “acid” includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

Explanation 2: - For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible].

327. *Voluntarily causing hurt to extort property or to constrain to an illegal act.* — Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer, or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

328. *Causing hurt by means of poison, etc., with intent to commit an offence.* — Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

329. *Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.* — Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything that is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment for life, or imprisonment of either description for the term which may extend to ten years, and shall also be liable to fine.

330. *Voluntarily causing hurt to extort confession or to compel restoration of property.* — Whoever voluntarily causes hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property

or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations

(a) A, a police-officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.

(b) A, a police-officer tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(d) A, a zamindar, tortures a raiyat in order to compel him to pay his rent. A is guilty of an offence under this section.

331. *Voluntarily causing grievous hurt to extort confession or to compel restoration of property.* — Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

332. *Voluntarily causing hurt to deter public servant from his duty.* — Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in 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 three years, or with fine, or with both.

333. *Voluntarily causing grievous hurt to deter public servant from his duty.* — Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to

prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in 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 ten years, and shall also be liable to fine.

334. *Voluntarily causing hurt on provocation.* — Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

335. *Voluntarily causing grievous hurt on provocation.* — Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Explanation.—The last two sections are subject to the same provisos as Exception 1, section 300.

336. *Act endangering life or personal safety of others.* — Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

337. *Causing hurt by act endangering life or personal safety of others.* — Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

338. *Causing grievous hurt by act endangering life or personal safety of others.* — Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment, of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Of Wrongful Restraint and Wrongful Confinement

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 hereby 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 in. 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 to 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 confinements.* — Whoever wrongfully confines any person, shall be punished with 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.

343. *Wrongful confinement for three or more days.* — Whoever wrongfully confines any person for three days or more shall be punished with imprisonment of either description for a term which may extend to ¹[two years] or with fine, or with both.

¹ Substituted by Act III of 1967 for “three years”.

¹[344. *Wrongful confinement for ten or more days.* — Whoever wrongfully confines any person for ten days or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.]

345. *Wrongful confinement of person for whose liberation writ has been issued.* — Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other section of this Chapter.

346. *Wrongful confinement in secret.* — Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person, or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

347. *Wrongful confinement to extort property or constrain to illegal act.* — Whoever wrongfully confines any person for the purpose of extorting from the person confined or from any person interested in the person confined, any property or valuable security, or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

348. *Wrongful confinement to extort confession or compel restoration of property.* — Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either

¹ Section 344 inserted by Act III of 1967.

description for a term which may extend to three years, and also be liable to fine.

Of Criminal Force and Assault

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 act 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.

(c) Z is riding in a palanquin. A intending to rob Z, seizes the pole, and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore, used force to Z; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore, intentionally used force to Z and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes or with something carried by Z, or that it will strike water, and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z and if he did so without Z's consent intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.

(f) A intentionally pulls, up a woman's veil. Here A intentionally uses force to her, and if he does so without her consent intending or knowing it to be likely that he may there by injure, frighten or annoy her he has used criminal force to her.

(g) Z is bathing, A pours into the bath water which he knows to be boiling. Here A intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling, A has therefore, intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may there-by cause injury, fear or annoyance to Z, A has used criminal force.

(h) A incites a dog to spring upon Z, without Z's consent, Here if A intends to cause injury, fear or annoyance to Z, uses 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 gesture or preparations such a meaning as may make those gesture 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 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.

352. Punishment for assault or criminal force otherwise than on grave provocation. — Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is 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, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

353. Assault or criminal force to deter public servant from discharge of his duty. — Whoever, assault 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 in 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 year, or with fine, or with both.

354. Assault or criminal force to women 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, ¹[shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years and shall also be liable to fine].

²[354A. *Sexual harassment and punishment therefor.* – (1) A man committing any of the following acts, -

- (i) physical contact and advances involving unwelcome and explicit sexual overtures; or
- (ii) a demand or request for sexual favours; or
- (iii) forcibly showing pornography; or
- (iv) making sexually coloured remarks;

shall be guilty of offence of sexual harassment.

(2) Any person who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment which may extend to three years and with fine.

(3) Any person who commits the offence specified in clause (iv) of sub-section (1) shall be punishable with imprisonment of either description which may extend to one year and with fine.

354B. Assault or use of criminal force to women with intent to disrobe. – Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and with fine.

¹ Substituted by Act XI of 2014, s. 9. (For earlier amendment see Act III of 1967.

² Sections 345A, 354B, 354C and 354D inserted by Act XI of 2014, s. 10.

354C. *Voyeurism.* – Any man who watches, or captures the image of, a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.

Explanation 1: - For the purposes of this section, “private act” includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim’s genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2: - Where the victim consents to the capture of images or any act, but not to their dissemination to the third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

354D. *Stalking.* – (1) Any man who, -

- (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly, despite a clear indication of disinterest by such woman; or
- (ii) monitors the use by a woman of the internet, e-mail or any other form of electronic communication,

commits the offence of stalking:

Provided that the course of conduct will not amount to stalking if the man who pursued it proves that-

- (i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking has been entrusted with the responsibility of prevention and detection of crime by the State; or
- (ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

- (iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine ; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years and shall also be liable to fine].

355. Assault or criminal force with intent to dishonour persons, otherwise than on grave provocation. — Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

356. Assault or criminal force in attempt to commit theft of property carried by a person. — Whoever assaults or uses criminal force to any person in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

357. Assault or criminal force in attempt wrongfully to confine a person. — Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person shall be punished with 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.

358. Assault or criminal force on grave provocation. — Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Explanation:—The last section is subject to the same explanation as section 352.

Of Kidnapping, Abduction, Slavery and Forced Labour

359. Kidnapping. — Kidnapping is of two kinds; kidnapping from Jammu and Kashmir State and kidnapping from lawful guardianship.

360. Kidnapping from Jammu and Kashmir State. — Whoever kidnaps any person beyond the limits of Jammu and Kashmir State without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from Jammu and Kashmir State.

361. Kidnapping from lawful guardianship. — Whoever takes or entices any minor under ¹[sixteen years] of age if a male, or under ¹[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 Jammu and Kashmir State or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to ²[seven years], and shall also be liable to fine.

³[**363-A. Kidnapping or maiming a minor for purposes of begging.** — (1) Whoever kidnaps any minor or, not being the lawful guardian of a minor, obtains the custody of the minor, in order that such minor may be employed or used for the purposes of begging, shall be punishable with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(2) Whoever maims any minor in order that such minor may be employed or used for the purposes of begging, shall be punishable with imprisonment for life, and shall also be liable to fine.

¹ Substituted by Act III of 1967.

² Substituted for “three years” vide Notification No. 13-L/83 dated 30th August, 1926.

³ Section 363-A inserted by Act XXIX of 1960.

(3) Where any person, not being the lawful guardian of a minor, employs or uses such minor for the purposes of begging, it shall be presumed, unless, the contrary is proved, that he kidnapped or otherwise obtained the custody of that minor in order that the minor might be employed or used for the purposes of begging.

(4) In this section, —

(a) “begging” means—

- (i) soliciting or receiving alms in a public place, whether under the pretence of singing, dancing, fortune telling, performing tricks or selling articles or otherwise;
- (ii) entering on any private premises for the purpose of soliciting or receiving alms;
- (iii) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself, or of any other person or of an animal;
- (iv) using a minor as an exhibit for the purpose of soliciting or receiving alms;

(b) “minor” means—

- (i) in the case of a male, a person under sixteen years of age; and
- (ii) in the case of a female, a person under eighteen years of age.]

364. Kidnapping or abducting in order to murder. — Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with imprisonment for life or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations

(a) A kidnaps Z from India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

365. Kidnapping or abducting with intent secretly and wrongfully to confine person. — Whoever kidnaps or abducts any person with intent to cause

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

366. *Kidnapping or abducting any woman to compel her marriage, etc.* — Whoever kidnaps or abducts any woman with intent that she may be compelled or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

¹[and whoever, by means of criminal intimidation as defined in this Code, or of abuse of authority, or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be forced or seduced to illicit intercourse with another person, shall also be punishable as aforesaid.]

²[**366-A.** Whoever, by any means whatsoever, induces any minor girl under the age of 18 years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person, shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.]

³[**366-B.** *Importation of girl from outside the State.* — Whoever imports into the State from any place outside the Jammu and Kashmir State, any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, shall be punishable with imprisonment of either description which may extend to ten years and shall also be liable to fine.]

367. *Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.* — Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term

¹ Para to section 366 added by Notification No. 13-L/83 dated 30th August, 1926, published in the Government Gazette No. 22 of 1983 (Assuj).

² Section 366-A inserted *ibid*.

³ Section 366-B inserted by Act VIII of Samvat 1989.

which may extend to ten years, and shall also be liable to fine.

368. *Wrongfully concealing or keeping in confinement kidnapped or abducted person.* — Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose, as that with or for which he conceals or detains such person in confinement.

369. *Kidnapping or abducting child under ten years with intent to steal from its person.* — Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any movable property from the person of such 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.

¹[370. *Trafficking of person.* – (1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by-

First. – using threat; or

Secondly. – using force, or any other form of coercion; or

Thirdly. – by abduction; or

Fourthly. – by practising fraud, or deception; or

Fifthly. – by abuse of power; or

Sixthly. – by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

Explanation 1: The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

Explanation 2: - The consent of the victim is immaterial in a determination of the offence of trafficking.

(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than three years, but

¹ Sections 370 and 370A substituted for “section 370” by Act XI of 2014, s. 11.

which may extend to seven years and shall also be liable to fine.

(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than five years but which may extend to seven years and shall also be liable to fine.

(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.

(5) Where the offence involves the trafficking of more than one minor at the same time, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to fifteen years and shall also be liable to fine.

(6) If a person is convicted of the offence of trafficking of minors, on more than one occasion, then such person shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and shall also be liable to fine up to Rupees two lakhs.

(7) When a public servant including police officers is involved in the trafficking of a minor then such public servant shall be punished with imprisonment for life, which shall mean the remainder of that person's natural life and shall also be liable to fine up to Rupees one lakh.

370A. *Exploitation of a trafficked person.* – (1) Whoever, knowingly, or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years and shall also be liable to fine.

(2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine].

371. *Habitual dealing in slaves.* — Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with imprisonment for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

372. *Selling person for purposes of prostitution, etc.* — Whoever, sells, lets to hire, or otherwise disposes of any ¹[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person, or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

²[*Explanation 1*—When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.]

³[*Explanation 2*.—For the purposes of this section “illicit intercourse” means sexual intercourse between persons not united by marriage, or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong, or where they belong to different communities, of both such communities as constituting between them a quasi-marital relation].

373. *Buying persons for purposes of prostitution.* — Whoever buys, hires or otherwise obtains possession of any ⁴[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person, or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

⁵[*Explanation 1*. – Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the

¹ Substituted for certain words by Notification No. 13-L/83 dated 30th August, 1926.

² Substituted by Act III of 1967.

³ Substituted by Notification No. 13-L/83 dated 30th August, 1926.

⁴ Substituted by Notification No. 13-L/83 dated 30th August, 1926.

⁵ Substituted by Act III of 1967.

purpose of prostitution.]

¹[*Explanation 2.*—“Illicit intercourse” has the same meaning as in section 372.]

374. Unlawful compulsory labour. — Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to ²[one year,] or with fine, or with both.

Sexual Offences

³[**375. Rape.** — A man is said to committed ‘rape’ if he, —

- (a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person ; or
- (b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person ; or
- (c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person ; or
- (d) applies his mouth to the vagina, anus or urethra of a woman or makes her to do so with him or any other person,

Under the circumstances falling under the following seven descriptions:—

Firstly.—Against her will ;

Secondly.—Without her consent ;

Thirdly.—With her consent when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt ;

Fourthly.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes to be lawfully married ;

¹ Explanation added by Notification No. 13-L/83 dated 30th August, 1926.

² Substituted by Act III of 1967.

³ Sections 375, 376, 376-A, 376-B, 376-C and 376-D substituted by Act XI of 2014, s. 12. (For earlier amendment see Act No. XXVI of 1988, s. 3).

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

Sixthly.—With or without her consent, when she is under eighteen years of age ;

Seventhly. —When she is unable to communicate consent.

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

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

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

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

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

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

(2) Whoever,—

(a) being a police officer, commits rape—

- (i) within the limits of the police station to which such police officer is appointed; or
- (ii) in the premises of any station house; or
- (iii) on a woman in such police officer’s custody or in the custody of a police officer subordinates to such police officer; or

- (b) being a public servant, commits rape on a person in such public servant's custody or in the custody of a public servant subordinate to such public servant; or
- (c) being a member of the armed forces deployed in an area by the Central or the State Government, commits rape in such area; or
- (d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or
- (e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or
- (f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards, the woman assaulted, commits rape on such woman; or
- (g) commits rape, during communal or sectarian violence; or
- (h) commits rape, on a woman knowing her to be pregnant; or
- (i) commits rape, on a woman when she is under sixteen years of age; or
- (j) commits rape, on a woman incapable of giving consent; or
- (k) being in a position of control or dominance over a woman, commits rape on such woman; or
- (l) commits rape, on a woman suffering from mental or physical disability; or
- (m) while committing rape, causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or
- (n) commits rape repeatedly on the same woman,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation:—For the purposes of this section, —

- (a) “armed forces” means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time

being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

- (b) “hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation or medical examination or pathological tests;
- (c) “women’s or children’s institution” means an institution, whether called an orphanage or a home for neglected women or children or a widow’s home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

376A. *Punishment for causing death or resulting in persistent vegetative state of the victim.* — Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of woman or causes woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty-five years, but which may extend to imprisonment for life, which shall mean the imprisonment for the remainder of that person’s natural life, or with death.

376B. *Sexual intercourse by husband upon his wife during separation.* — Whoever commits sexual intercourse on his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description, for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine.

376-B. *Intercourse by public servant with woman in his custody.* — Whoever being a public servant, takes advantage of his official position, and induces or seduces, any woman, who is in his custody as such public servant or in the custody of a public servant subordinate to him, to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

376C. *Sexual intercourse by a person in Authority.* — Whoever, —

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

- (b) a public servant; or
- (c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or of a women's or children's institution; or
- (d) being on the management of a hospital or being on the staff of a hospital,

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

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

Explanation 2. — For the purposes of this section, Explanation 1 to section 375 shall also be applicable.

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

Explanation 4: —The expression “hospital” and “woman's or children's institution” shall respectively have the same meaning as in Explanation to sub-section (2) of section 376.

376D. Gang rape. —Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape, and shall be punished with rigorous imprisonment for a term which shall not be less than twenty-five years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life and with fine:

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

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

376E. *Punishment for repeat offenders.* —Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376D and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life or with death.

376F. *Cancellation of driving licence.* —(1) The licence of the accused of rape or an offence under section 294 shall stand suspended from the date the accused is challaned in a competent court of law till the announcement of the judgment.

(2) Any person found guilty of offences mentioned in sub-section (1) shall have no right to drive any vehicle in the State and his licence shall stand cancelled on conviction].

Of Unnatural Offences

377. *Unnatural offences.* — Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in the section.

CHAPTER XVII

Of Offences against Property

Of Theft

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 had 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 to 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.

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds ring lying on the high road, not in the possession of any person. A by taking it, commits no theft, though he may commit criminal misappropriation of property.

(h) A sees ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z,

with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes dishonestly.

(k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes dishonestly.

(l) A takes an article belonging to Z out of Z's possession without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly A has therefore committed theft.

(m) 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 for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z, her husband. Here it is probable that A may conceive that Z's wife is authorised to give away alms. If this was A's impression, A has not committed theft.

(o) A is the paramour of Z's wife. She gives a valuable property, which A knows to belong to her husband Z, and to be such property as she has no authority from Z to give. If A takes the property dishonestly, he commits theft.

(p) A, in good faith, believing property belonging to Z to be A's own property, takes the property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

379. *Punishment for theft.* — Whoever commits theft shall be punished with imprisonment of either description for a term which extend to three years, or with fine, or with both.

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.

381. *Theft by clerk or servant of property in possession of master.* — Whoever being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to ¹[seven years,] and shall also be liable to fine.

382. *Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.* — Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape of the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall be also be liable to fine.

Illustrations

(a) A commits theft on property in Z's possession; and, while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z, in case Z should resist. A has committed the offence defined in this section.

(b) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

Of Extortion

¹ Substituted by Act III of 1967.

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 money to A. 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.

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, 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.

385. Putting person in fear of injury in order to commit extortion. — Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

386. Extortion by putting a person in fear of death or grievous hurt. — Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

387. Putting person in fear of death or of grievous hurt, in order to commit extortion. — Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person

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

388. Extortion by threat of accusation of an offence punishable with death, etc. — Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with imprisonment for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, 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 the offence be one punishable under section 377 of this Code, may be punished with imprisonment for life.

389. Putting person in fear of accusation of offence, in order to commit extortion. — Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, an offence punishable with death or with imprisonment for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377 of this Code, may be punished with imprisonment for life.

Of Robbery and Dacoity

390. Robbery. — In all robbery there is either theft or extortion.

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,

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, or 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, or of instant hurt, or 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 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 of 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.

393. *Attempt to commit robbery.* — Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

394. *Voluntarily causing hurt in committing robbery.* — If any

person, in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

395. *Punishment for dacoity.* — Whoever commits dacoity shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

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

397. *Robbery or dacoity, with attempt to cause death or grievous hurt.* — If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

398. *Attempt to commit robbery or dacoity when armed with deadly weapon.* — If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

399. *Making preparation to commit dacoity.* — Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.

400. *Punishment for belonging to gang of dacoits.* — Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.

401. *Punishment for belonging to gang of thieves.* — Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be

liable to fine.

402. *Assembling for purpose of committing dacoity.* — Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Of Criminal Misappropriation of Property

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 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 mistakes 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 has Z's implied consent to take the book for the purpose of reading it. A has not committed theft. But, if 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 within the meaning of this section.

Illustration

A finds a Government promissory note belonging to, Z, bearing a blank endorsement. A, knowing that the note belong to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has

committed offence under this section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it; it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found.

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 from 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 picks up the purse with the intention of restoring it to Z but afterwards appropriates it to his own use. A has committed an offence under this section.

(e) A finds purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(f) A finds a valuable ring, not knowing to whom it belongs. A sells it

immediately without attempting to discover the owner. A is guilty of an offence under this section.

404. Dishonest misappropriation of property possessed by deceased person at the time of his death. — Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and, if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

Of Criminal Breach of Trust

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".

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.

(c) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an

express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.

(d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's direction, and buys shares in the Bank of Bengal for Z, instead of buying company's paper, here though Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(e) A, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. 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.

407. *Criminal breach of trust by carrier, etc.* — Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also liable to fine.

408. *Criminal breach of trust by clerk or servant.* — Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall be also be liable to fine.

409. *Criminal breach of trust by public servant, or by banker,*

merchant or agent. — Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ¹[ten years,] and shall also be liable to fine.

Of Receiving of Stolen Property

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 ²[the State]. 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.

412. *Dishonestly receiving property stolen in the commission of a dacoity.* — Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

413. *Habitually dealing in stolen property.* — Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

¹ Substituted by Act III of 1967.

² Substituted by A.L.O. of Samvat 2008 for “British India”.

414. *Assisting in concealment of stolen property.* — Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe 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.

Of Cheating

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 of 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.

(d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

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

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z, a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if, A at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks the contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from A. A cheats.

416. *Cheating by personation.* — A person is said to “Cheat by personation” if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation:—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations

(a) A cheats by pretending to be ascertain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

417. *Punishment for cheating.* — Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

418. *Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.* — Whoever cheats with the knowledge that he is likely thereby to cause a wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound

either by law, or by legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

419. *Punishment for cheating by personation.* — Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

420. *Cheating and dishonestly inducing delivery of property.* — Whoever cheats and thereby dishonestly induces the person deceives to deliver any property to any person or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

¹**[420-A. *Cheating public authorities in performance of certain contracts.*** — Whoever, in performance of any contract with the Government or other public authority for the supply of any goods, or the execution of any other works, —

- (a) in the case of a contract for the supply of goods, dishonestly supplies goods which are less in quantity than, or which are, in any manner whatever, not in accordance with the contract, or
- (b) in the case of a contract for construction of a building or the execution of other work, dishonestly uses materials which are less in quantity than, or inferior in quality to, those he contracted to use, or which are in any manner, whatever not in accordance with the contract;

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

Explanation:— In this section “public authority” means—

- (a) a corporation established by or under a Central, or State Act;
- (b) A Government Company as defined in section 617 of the Companies Act, 1956; and
- (c) A local authority.]

Of Fraudulent Deeds and Dispositions of Property

¹ Section 420-A inserted by Act X of 1983, s. 23.

421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors. — Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of 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.

422. Dishonestly or fraudulently preventing debt being available for creditors. — Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such 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.

423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration. — Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

424. Dishonest or fraudulent removal or concealment of property. — Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to ¹[two years,] or with fine, or with both.

Of Mischief

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”.

¹ Substituted by Act III of 1967.

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 or thus causing damage to Z. A has committed mischief.

(e) A having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(f) A causes a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.

(g) A having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crops. 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.

427. Mischief causing damage to the amount of fifty rupees.— Whoever commits mischief and thereby causes loss or damage to the amount of ¹[fifty] rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to ²[two years,] or with fine, or with both.

428. Mischief by killing or maiming animal of the value of ten rupees. — Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees. — Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

430. Mischief by injury to works of irrigation or by wrongfully diverting water. — Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

431. Mischief by injury to public road, bridge, river or channel. — Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

432. Mischief by causing inundation or obstruction to public drainage attended with damage. — Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be

¹ Substituted for “one hundred” by correction slip published in Government Gazette dated 4th Sawan, 1991.

² Substituted by Act III of 1967.

punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

433. Omitted.

434. Mischief by destroying or moving, etc. a land-mark fixed by public authority. — Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or with both.

435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees. — Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards or (where the property is agricultural produce) ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine, ¹[if the damage relates to any public property, the imprisonment shall not be less than five years].

436. Mischief by fire or explosive substance with intent to destroy house, etc. — Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

²[**436-A. Mischief by felling, cutting, or otherwise damaging, destroying wholly or partially fruit-trees.** — Whoever commits mischief by felling, cutting or otherwise damaging or destroying wholly or partially fruit-trees and thereby causes loss or damage to the amount of five hundred rupees or upwards shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.]

437. Omitted.

438. Omitted.

¹ Added by Act XII of 1980, s. 12.

² Section 436-A added by Act XX of 1965.

439. *Omitted.*

440. *Mischief committed after preparation made for causing death or hurt.* — Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Of Criminal Trespass

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”.

¹[441-A. *Criminal trespass of public premises.* — Whoever—

- (a) unlawfully enters into or occupies any public premises or having been evicted from any public premises under any law for the time being in force, again occupies the premises without authority for such occupation; or
- (b) continues in occupation of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises, has expired,

is said to commit criminal trespass of public premises.

Explanation:— ‘Public premises’ means any land or building or part of a building—

- (1) belonging to, or taken on lease or requisitioned by or on behalf of the Government;
- (2) belonging to, or taken on lease by, or on behalf of—
 - (i) any company as defined in section 3 of the Companies Act, 1956, in which not less than fifty-one percent of the paid up share capital is held by the Government or any company which

¹ Section 441-A inserted by Act XXIV of 1988, s. 2.

is a subsidiary (within the meaning of that Act) of the first mentioned company,

- (ii) any corporation (not being a company as defined in section 3 of the Companies Act, 1956, or a local authority) established by or under a State or Central Act and owned or controlled by the Government,
 - (iii) any University established or incorporated by or under any State Act;
- (3) belonging to any Municipal Council or Town Area Committee; and
- (4) belonging to Development authority constituted under the Jammu and Kashmir Development Act whether such premises are in possession of, or leased out by the said Authority.

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 entering is 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 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-breaking.

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-trespass.

(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.

(h) Z, the doorkeeper of Y, is standing Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. 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”.

447. *Punishment for criminal trespass.* — Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

¹[**447-A. *Criminal trespass of public premises.*** — Whoever commits criminal trespass of public premises shall be punished with imprisonment of either description for a term which may extend to one year but shall not be less than three months, or with fine which may extend to five thousands rupees, or with both.

448. *Punishment for house-trespass.* — Whoever commits house-trespass shall be punished with 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.

449. *House-trespass in order to commit offence punishable with death.* — Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with imprisonment for life, or rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

450. *House-trespass in order to commit offence punishable with imprisonment for life.* — Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

451. *House-trespass in order to commit offence punishable with imprisonment.* — Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall

¹ Section 447-A inserted by Act XXIV of 1988, s. 3.

also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

452. *House-trespass after preparation for hurt, assault or wrongful restraint.* — Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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

454. *Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.* — Whoever commits lurking house-trespass or house-breaking in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

455. *Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.* — Whoever commits lurking house-trespass or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

456. *Punishment for lurking house-trespass or house-breaking by night.* — Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

457. *Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.* — Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine, and, if the offence intended to be committed is

theft, the term of the imprisonment may be extend to fourteen years.

458. *Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.* — Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

459. *Grievous hurt caused whilst committing lurking house-trespass or house-breaking.* — Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

460. *All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.* — If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall be liable to fine.

461. *Dishonestly breaking open receptacle containing property.*— Whoever dishonestly, or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

462. *Punishment for same offence when committed by person entrusted with custody.* — Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three

years, or with fine, or with both.

CHAPTER XVIII

Of Offences Relating to Documents and to ¹[x x x] Property Marks

463. Forgery. — ²[Whoever makes any false documents or false electronic record or part of a document or electronic record, 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. — ³[A persons is said to make a false document or false electronic record—

First—Who dishonestly or fraudulently—

- (a) makes, signs seals or executes a document or a part of a document;
- (b) makes or transmits any electronic record or a part of any electronic record;
- (c) affixes any digital signature on any electronic record;
- (d) makes any mark denoting the execution a document or the authenticity of the digital signature;

with the intention of causing it to be believed that such document or part of document, electronic record or digital signature was made, signal, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature 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 or an electronic recorder to affix his digital signature on an electronic record, knowing that such person by reason of

¹ Words “trade or” omitted by Act III of 1967.

² Substituted by Act V of 2001, s. 9.

³ Substituted by Act V of 2001, s. 10.

unsoundness of mind or intoxication cannot, or that by reason of deception practiced upon him, he does not know the contents of the document or the nature of the alteration].

Illustrations

(a) A has a letter of credit upon B for rupees 10,000 written by Z. A, in order to defraud B, adds a cipher to the 10,000 and makes the sum 1,00,000 intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A, without Z's authority, affixes Z's seal to a document purporting to the 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.

(d) A leaves with B, his agent, a cheque on banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill. A is guilty of forgery.

(f) Z's will contains these words— "I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order", and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending to be believed that he had conveyed the estate to B before he conveyed it to Z, A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will, A has committed forgery.

(j) A writes a letter and signs it with B's name without B's authority certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(k) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by forged certificate, and thereby to induce Z, to enter into an express or implied contract for service.

Explanation 1:— A man's signature of his own name may amount to forgery.

Illustrations

(a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiates the bill as though it had been accepted by Z. A is guilty of forgery, and if B, knowing the fact draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable, here A has committed forgery.

(d) A purchases an estate sold under execution of a decree against B. B after

the seizure of the estate, in collusion with Z, executes a lease of the estate, to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and in order to give a colour to the transaction, writes a promissory note, binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

¹[*Explanation 3.* —For the purposes of the section, the expression “affixing digital signature” shall have the meaning assigned to it in clause(d) of sub-section (1) of section 2 of the Information Technology Act, 2000.]

465. *Punishment for forgery.* — Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to ²[two years,] or with fine, or with both.

466. *Forgery of record of court or of public register, etc.* — Whoever forges ³[a document, or an electronic record] purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of

¹ Explanation 3 inserted by Act V of 2001, s. 10.

² Substituted by Act III of 1967 for “one year”.

³ Substituted by Act V of 2001, s. 11.

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

¹[*Explanation*: — For the purposes of this section “register” includes any list, data or record of any entries maintained in the electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act 2000.]

467. *Forgery of valuable security, Will, etc.* — Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for term which may extend to ten years, and shall also be liable to fine.

468. *Forgery for purpose of cheating.* — Whoever commits forgery, intending that the ²[document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

469. *Forgery for purpose of harming reputation.* — Whoever commits forgery, ³[intending that the document or electronic record forged] shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to ⁴[three years,] and shall also be liable to fine.

470. *Forged ³[document or electronic record].* — A false ⁵[document or electronic record] made wholly or in part by forgery is designated “a forged ³[document or electronic record]”.

471. *Using as genuine a forged ⁶[document or electronic record].* — Whoever fraudulently or dishonestly uses as genuine any ⁴[document or electronic record] which he knows or has reason to believe to be a forged

¹ Explanation inserted *ibid*.

² Substituted by Act V of 2001, s. 12.

³ Substituted by Act V of 2001, s. 13, for “intending that the document forged”.

⁴ Substituted by Act III of 1967 for “one year”.

⁵ Substituted by Act V of 2001, s. 14.

⁶ Substituted *ibid*, s. 15.

⁴[document or electronic record] shall be punished in the same manner as if he had forged such ⁴[document or electronic record].

472. *Making or possessing counterfeit seal, etc. with intent to commit forgery punishable under section 467.* — Whoever makes or counterfeits any seal, plate or other instrument for making an impression intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or, with such intent has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punishable with imprisonment for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

473. *Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.* — Whoever makes or counterfeits any seal plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

474. *Having possession of document or electronic record described in section 466 or 467 knowing it to be forged and intending to use it as genuine.* — ¹[Whoever has in his possession any document or electronic record, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document or electronic record is one of the description mentioned in section 466 of this Code], be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 467, shall be punished with imprisonment for life, or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

475. *Counterfeiting device or mark used for authenticating documents described in section 467 or possessing counterfeit*

¹ Substituted by Act V of 2001, s. 16.

marked material. — Whoever counterfeit upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to seven years, shall also be liable to fine.

476. *Counterfeiting device or mark used for authenticating document other than those described in section 467, or possessing counterfeit marked material.* — Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating ¹[any documents or electronic record] other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

477. *Fraudulent cancellation, destruction etc., of will, authority to adopt, or valuable security.* — Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

477-A. *Falsification of accounts.* — Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any

¹ Substituted by Act V of 2001, s. 17.

book ¹[electronic record] paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.

²[Of Property and other Marks]

³478. *Omitted.*

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

²480. *Omitted.*

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.

482. *Punishment of using false ⁴[x x x] property mark.* — Whoever uses ³[x x x x] 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 property mark used by another.* — Whoever counterfeits any ⁵[x x x x] property mark used by any other person, shall be

¹ Inserted by Act V of 2001, s. 18.

² Substituted by Act III of 1967.

³ Sections 478 and 480 omitted *ibid.*

⁴ Words “Trade mark or” omitted *ibid.*

⁵ Words omitted by Act III of 1967.

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

484. *Counterfeiting a mark used by a public servant.* — Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

¹**485. *Making or possession of any instrument for counterfeiting a property mark.*** — Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a property mark, or has in his possession a property mark for the purpose of denoting that any goods belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

486. *Selling goods marked with a counterfeit* ¹*[x x x] property mark.* — ²*[Whoever sells, or exposes, or has in possession for sale] any goods or thing with counterfeit* ¹*[x x x] 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—*

- (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.

¹ Section 485 substituted by Act III of 1967.

² Substituted *ibid*.

487. *Making a false mark upon any receptacle containing goods.*— Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contains goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, 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 three years, or with fine, or with both.

488. *Punishment for making use of any such false mark.* — Whoever makes use of any such false mark in any manner prohibited by the last foregoing sections shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

489. *Tampering with property mark with intent to cause injury.* — Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Of Currency-Notes and Bank-Notes

489-A. *Counterfeiting currency-notes or bank-notes.* — Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note, or bank-note, shall be punished with imprisonment for life, or with imprisonment of either description for term which may extend to ten years, and shall also be liable to fine.

Explanation:— For the purposes of this section and of sections 489-B, 489-C, 489-D, ¹[and 489-E] the expression “bank-note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to or as a substitute for, money.

489-B. *Using as genuine forged or counterfeit currency-notes or bank-notes.* — Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or

¹ Inserted by Act III of 1967.

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

489-C. *Possession of forged or counterfeit currency notes or bank-notes.* — Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

489-D. *Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.* — Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

¹**489-E.** *Making or using documents resembling currency notes or bank-notes.* — (1) Whoever makes or cause to be made, or uses for any purpose whatsoever or delivers to any person any document purporting to be or in any way resembling or so nearly resembling as to be calculated to deceive any currency-note, or bank-note, shall be punished with fine which may extend to one hundred rupees.

(2) If any person whose name appears on a document the making of which is an offence under sub-section (1), refuses without lawful excuse to disclose to a police officer on being so required, the name and address of the person by whom it was printed, or otherwise made, he shall be punished with fine which may extend to two hundred rupees.

(3) Where the name of any person appears on any document in respect of which any person is charged with an offence under sub-section (1) or on any other document used or distributed in connection with that document it may, until the contrary is proved, be presumed that that person caused the document to be made.]

CHAPTER XIX

¹ Section 489-E inserted by Act XV of Samvat 2005.

Of the Criminal Breach of Contracts of Service

¹490. *Omitted.*

491. *Breach of contract to attend on or to supply wants of helpless person.*

— Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, which may extend to two hundred rupees, or with both.

²492. *Omitted.*

CHAPTER XX

Of Offences Relating to Marriage

493. *Cohabitation caused by a man deceitful inducing a belief of a lawful marriage.* — Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

494. *Marrying again during lifetime of husband or wife.* — 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

¹ Section 490 omitted by Act III of 1967.

² Section 492 omitted by Act III of 1967.

marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

495. *Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.* — Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

496. *Marriage ceremony fraudulently gone through without lawful Marriage.* — Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to ¹[seven years,] and shall also be liable to fine.

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 ²[five years,] or with fine, or with both. In such case the wife shall be punishable as an abettor.

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 ²[five years], or with fine, or with both. In such case the woman shall be liable to be punished as an abettor.

³[CHAPTER XX-A

Of Cruelty by Husband or Relative of Husband

498-A. *Husband or relative of husband of a woman subjecting her*

¹ Substituted by Act III of 1967.

² Substituted for “two years” by Notification No. 13-L/83 dated 30th August, 1926.

³ Chapter XX-A inserted by Act XXVI of 1988, s. 4, w. e. f. 5-9-1986.

to cruelty. — 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 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.]

CHAPTER XXI

Of Defamation

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 falls within one of the Exceptions.

(b) A is asked who stole B’s watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the Exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the Exceptions.

First Exception.—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 required to be made or published for the public good is a question of fact.

Second Exception.— 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.— 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, informing 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 in which the public is interested.

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

(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 he expresses of Z’s character, is an opinion not founded on Z’s conduct as a witness.

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

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.

(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 this 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 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.— 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.

Censure passed in good faith by person having lawful authority over another

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 order; a parent censuring in good faith a child in the presence of other children; a school master, 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 much cashier-are within this exception.

Eighth Exception.— 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.

Accusation preferred in good faith to authorized person

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.— 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

Imputation made in good faith by person for protection of his or other interest

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 interest.

(b) A, a Magistrate, in making report to his 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.— 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.

501. Printing or engraving matter known to be defamatory.— Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

502. Sale of printed or engraved substance containing defamatory matter.— Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XXII

Of Criminal Intimidation, Insult and Annoyance

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

504. *Intentional insult with intent to provoke breach of peace.*—Whoever intentionally insults, and thereby give provocation to any person, intending or knowing to it be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

505. *Statement conducting to public mischief.* — ¹[(1)] Whoever makes, publishes or circulates any statement, rumour or report, —

- (a) with intent to cause, or which is likely to cause, ²[any officer, soldier, sailor or airman in the Army, Navy or Air Force of India] to mutiny or otherwise disregard or fail in his duty as such; or
- (b) with intent to cause, or which is likely to cause, fear or alarm to the public to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or
- (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment ¹[which shall not be less than three years but may extend to ten years and shall also be liable to fine.]

¹[(2) Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is

<i>Statement creating or promoting enmity, hatred or ill-will between classes</i>	likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial language or
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¹ Section 505 renumbered as sub-section (1) and sub-sections (2) and (3) inserted by Act XVII of 1970.

² Substituted by Act III of 1967.

regional groups or castes or communities, shall be punished with imprisonment¹[which shall not be less than three years but may extend to ten years and shall also be liable to fine.

(3) Whoever commits an offence specified in sub-section (2) in any place of *Offence under sub-section (2) committed to place of worship, etc.* worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment²[which shall not be less than four years but may extend to ten years.]

Exception.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it³[in good faith and] without any such intent as aforesaid.

506. Punishment for criminal intimidation. — Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life or with imprisonment for a term which may extend to seven years, or to impute unchastely to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

If threat be to cause death or grievous hurt, etc.

507. Criminal intimidation by an anonymous communication. — Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

508. Act caused by inducing person to believe that he will be rendered an object of Divine displeasure. — Whoever, voluntarily causes or attempts to cause any person to do anything which that person is not legally

¹ Substituted by Act III of 1967.

² Substituted by Act XII of 1980, s. 13.

³ Words inserted by Act XVII of 1970.

bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations

(a) A sits dharna at Z's door with the intention of causing it to be believed that, by so sitting, he renders an object of Divine displeasure. A has committed the offence defined in this section.

(b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

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, ¹[or transmits through SMS or e-mail any obscene song, ballad words or any abusive language] 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, ²[shall be punished with simple imprisonment for a term which shall not be less than one year but which may extend to three years and shall also be liable to fine].

510. *Misconduct in public by a drunken person.* — Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term ³[which may extend to two years and with fine up to one hundred rupees.]

¹ Words inserted by Act XI of 2014, s. 13.

² Substituted *ibid.* (For earlier amendment see Act No. XVII of 1981, s. 2).

³ Substituted by Act XVII of 1981, s. 3.

CHAPTER XXIII

Of Attempts to Commit Offences

511. *Punishment for attempting to commit offences punishable with imprisonment for life or 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 ¹[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.

²[512 to 515. Omitted.]

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¹ Substituted by Act XII of 1980, s. 13.

² Chapter XXIV and sections 512 to 515 omitted *ibid*.