



ESSENTIAL INGREDIENTS – BNS

Cardinal principles of crimes

- ❖ No crime without law, no punishment without law.
- ❖ A man is presumed to be innocent until proven guilty.
- ❖ Ignorance of fact is an excuse, But, Ignorance of law is no excuse.
- ❖ An act must be accompanied by a criminal intent to constitute an offence.
- ❖ All individuals are treated equally before the law.

Elements of crime (to establish criminal liability)

1. Accused person, 2. Mens rea, 3. Actus reus, 4. Injury.

Elements of Mens rea

1. Motive, 2. Intention, 3. Knowledge, 4. Negligence, 5. Recklessness,
6. Reason to believe

Stages of crime

1. Mens rea (Intention), 2. Preparation, 3. Attempt, 4. Commission of an Act

Types of liability

1. Strict liability (Exceptions to Mens rea)
2. Absolute liability (strict liability minus exception)
3. Joint liability – S- 3(5) **or** Vicarious liability
4. Constructive liability – S- 190 (Unlawful assembly)

Common intention 3(5)

- A criminal **act** must be done by **several persons**;
- Such act must be done in **furtherance of** common intention of all, and
- There must be **participation** of all persons in furtherance of the common intention.

S- 190 Common object

- a) There must be an **unlawful assembly**, as defined in section 189.
- b) Criminal act must be **done by any member** of such assembly.
- c) Such act must be done **for the prosecution of the common object** of the assembly **or** members of that assembly (group) knew that the act was likely to be committed.

Community Service- punishment has been provided for **6 petty offences**

1. Involvement of public servants in illegal trade (**S – 202**)
2. Non-appearance in response to a proclamation (**S – 209**)
3. Attempt to commit suicide to influence legal authority (**S – 226**)
4. First conviction of petty theft involving property valued below Rs 5,000. (**S – 303(2)**)
5. Public misconduct by a drunken person (**S – 355**)
6. Defamation (**S – 356**)

Death penalty award in rarest rare case

- There is no statutory definition of rarest of rare.
- It depends upon facts and circumstances of a particular case, brutality of the crime, conduct of the offender, previous history of his/her involvement in crime.
- Aggravating factors includes the brutality of the crime, the impact on the victim and society, and the criminal's prior record.
- Mitigating factors includes the accused age, mental health, and potential for rehabilitation.

Rarest rare test - factors may be taken into consideration

1. Manner of commission of crime
2. Motive for commission of crime
3. Anti-social or socially abhorrent (disgusting) nature of the crime
4. Magnitude of crime
5. Personality of victim of murder

Mistake of fact [Sections 14, 17]

- ❖ An act is committed by a person.
- ❖ Person is bound by law to commit the act. (**S - 17** : justified by law)
- ❖ He believes so in good faith. (i.e act with due care and attention)
- ❖ The reason behind such belief is a mistake of fact and **not a mistake of law**.

There is a **legal duty** in section 14 and **legal justification** in section 17

Accident [S- 18] - defence to an offender

- ❖ the act was done by accident or misfortune;
- ❖ it was done without any criminal intention or knowledge;
- ❖ it was lawful act being done in lawful manner by lawful means;
- ❖ it was being done with proper care and caution.

Necessity [Section 19]

- ❖ Act is done with the knowledge that it is likely to cause harm;
- ❖ It is done without any criminal intention to cause harm;
- ❖ Act is done in good faith for the purpose of avoiding other harm to person or property

Insanity [Section 22] - defence to an offender

- ❖ At the time of committing the offence, the accused **was of unsound mind**.
- ❖ Because of the unsoundness of mind, he was not capable of knowing the **nature of the act** at the time of committing the offence. **Or**
- ❖ Because of the unsoundness of mind, he was not capable of knowing that he was doing something either **wrong or contrary to law** at the time of committing the offence.

Mc Naughten Rules

- ❖ Every person is **presumed to be sane** and to possess a sufficient degree of reasonableness to be responsible for his crimes, until the contrary is proved.
- ❖ In order to be exempt from the criminal liability of a conduct, it must be **proved that at the time of committing the act**, the person due to a defect of mind **was not aware** of nature and quality of the act he was doing, **or**
if he did know it, he did not know that what he was doing was wrong.
- ❖ If a person was **conscious at the time of doing the act**, to the fact that his act was contrary to the law of the land, he is to be **held criminally liable**.
- ❖ When a person commits certain acts suffering from **delusional insanity** and thus not knowing the true nature of his acts, he will be **held liable**.

Involuntary intoxication (S : 23) - defence to an offender

- ❖ The person must perform an act.
- ❖ They must be unable to understand the nature of the act.
- ❖ This inability is a result of their intoxication.
- ❖ The intoxication must have been administered **without their consent** or knowledge.
- ❖ The incapacity should be present at the time of the act.

Voluntary intoxication (S : 24) - is not a defence

Voluntary intoxication = Treated as if they were not drunk

+

Presumed that he had the necessary knowledge (**Not intent**)

(Same level of knowledge as a sober (not drunk))

Consent [Sections 25-28 and 30] [consent is not a true consent if it is given:

- by a person under fear of injury and the person obtaining the consent knows or has reason to believe this.
- by a person under a misconception of fact;
- by a person of unsound mind and who is unable to understand the nature and consequence of that to which, he gives his consent.
- by a person who is intoxicated.
- by a person under twelve years of age.
- Consent is an act of reason, accompanied with deliberation, the mind weighing as in balance, the good and evil on each side.

Right of private defence (S- 34 – 44)

This right is based on following **principles**,

- ❖ It is available against the aggressor/assailant only.
- ❖ This right is available only when the defender entertains reasonable apprehension.
- ❖ A mere **reasonable apprehension is enough** to put the right of self-defence into operation. In other words, it is not necessary that there should be an actual commission of the offence in order to give rise to the right of private defence. It is enough if the accused apprehended that

such an offence is contemplated and it is likely to be committed if the right of private defence is not exercised.

- ❖ Right of private defence is a **defensive right** and not an offensive right.
- ❖ The law does not require a law-abiding citizen to behave like a coward when confronted with an imminent **unlawful aggression**.
- ❖ Right of private defence can exercise against person of unsound mind etc.
- ❖ When you do have the right to defend yourself, you can only use as much force as is necessary to protect yourself. You can't cause more harm than needed. **(i.e proportionate harm)**.
- ❖ No man has a right to take the law into his own hands. There is no right of private defence, when there is **sufficient time** to seek the **protection of public authorities**.
- ❖ The right of private defence of property/body **commences** when a reasonable apprehension of danger to the property commences/ body.
- ❖ The accused need not prove the existence of the right of private defence beyond reasonable doubt. (only preponderance of probability)

Rights of private defence of body (S- 35) extend under circumstances the causing of death.

- (a) An attack that makes you reasonably believe that **you might die** if you don't defend yourself.
- (b) An attack that makes you reasonably believe that you might suffer **serious injury** if you don't defend yourself.
- (c) An attack with the intention of **committing rape**.
- (d) An attack with the intention of satisfying **unnatural sexual desires**.
- (e) An attack with the intention of **kidnapping or abducting someone**.

(f) An attack with the intention of **wrongfully confining someone**, making them reasonably believe that they won't be able to get help from the authorities.

(g) An act of throwing or trying to **throw acid**, which makes you reasonably believe that you might suffer serious injury if you don't defend yourself.

Rights of private defence of property (S- 41) extend under circumstances the causing of death.

(a) **Robbery;**

(b) **House-breaking** after sun set and before sun rise;

(c) **Mischief by fire** or any explosive substance committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property,

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

Inchoate offence (Incomplete offence)

a) Abetment (S-45-60)

b) Conspiracy (S – 61)

c) Attempt (S – 62)

Abetment (S-45-60)

- There can be no abetment without intention or knowledge. However, mere knowledge of offence being committed by others is not covered by the definition of abetment.
- **As a general rule**, for the offence of abetment, it is not required that the abetted offence should actually be committed.

- An act of abetment may take place in one or more of the following ways:
 - (1) Instigation, (2) Conspiracy, or (c) Intentional aid.
- It is not necessary that a person instigated must be known to the instigator.
- A person who abets to do an offence is equally liable for the offence which is done by the person who was abetted.

Circumstances when the abetment amounts to an offence:

- Abetment of illegal omission is also an offence
- The effect of abetment is immaterial
- Person abetted need not be capable or having mens rea
- Abetment of abetment is also an offence
- Abettor need not concert (plan) with the person executing the act abetted

S- 51. Liability of abettor when one act abetted and different act done.

- ❖ Act is abetted and a **different act** is done.
- ❖ The abettor shall be liable for the act done in the **same manner** and to the same extent as if he had directly abetted.

Exp: The different act done was a probable consequence of that abetment, **not a distinct act.**

S- 54. Abettor present when offence is committed.

1. There is prior abetment for the wrongdoing.
2. Abettor is present when the actus reus takes place, however takes no active part in its doing.
3. Offence is committed in consequence of abetment. **Abettor shall be deemed to have committed the offence.**

Conspiracy (S – 61)

- ❖ There should be two or more persons;

- ❖ There should be an agreement with the **common object** between them;
- ❖ The agreement must be to do or cause to be done;

i) an illegal act or

ii) an act which may not be illegal by illegal means.

Attempt (S – 62)

- ❖ There must be an intention to commit a particular offence,
- ❖ Some act must have been done towards the commission of the offence and,
- ❖ Such act must be proximate to the intended result.

S- 63 Rape

[Sexual acts + Against will + Without consent + Consent by misconception/fear of death/ unsoundness]

- ❖ There must be any of the **sexual acts** [puts his penis into the vagina, mouth, urethra, or anus of a woman/Put any object/Touch any part/ puts his mouth on the vagina];
- ❖ Such a sexual intercourse should be under any of the following circumstances:
 1. **Against her will;**
 2. **Without her consent;**
 3. With consent obtained under **fear of death or hurt;**
 4. With consent under **misconception of fact** that the man is her husband;
 5. Consent given by reason of **unsoundness of mind**, intoxication or under influence of any stupefying or unwholesome substance;(i.e She is unable to understand the nature and consequence of that when she gives consent)
 6. With a woman under 18 years of age, **with or without consent.**
 7. When she is unable to communicate consent.

S – 68 Sexual intercourse by a person in authority [Custodial rape]

[Fiduciary relationship/Seduce/Induce + Woman in custody + Intercourse]

- ❖ A fiduciary (confidential) relationship must have established between two parties, in which one party places special trust and reliance on another.
- ❖ Sexual intercourse by public servants (armed forces/officer of Jail/Management in hospital) with women in their custody.
- ❖ Victim shall be in custody under the supervision of offender.

S- 70 Gang rape [Group of persons + Common intention + Rape]

1. Woman is raped by one or more persons constituting a group.
2. **Group of persons** have Common intention.

Criminal force and assault against woman

74. Assault or + use of criminal force to + woman + with intent to outrage her modesty.

- ❖ Assault must be on a woman.
- ❖ The accused should have used some sort of criminal force on her. (i.e indecent assault)
- ❖ Criminal force must have been used on the woman with the intention/knowledge of **outrage her modesty**.

S- 75 Sexual harassment [physical contact, unwanted sexual proposal]

A man committing any of the following acts

- (i) Makes physical contact and unwelcome and unwanted sexual proposal; **or**
- (ii) Demand or request for sexual favors; **or**
- (iii) Shows pornography to a woman without her consent; **or**
- (iv) Makes sexually suggestive comments.

S- 76. Assault or use of criminal force + to woman with intent to disrobe

- ❖ The accused should have used some sort of criminal force **or** abetment of such act. (i.e indecent assault)
- ❖ Criminal force must have been used on the woman with the intention of disrobing or compelling the **victim to be naked**.

S- 77. Voyeurism [**Watching/ Share + Perpetrator + Expects privacy**]

‘Whoever’

1. Act of **watching or** filming a woman in a **private act** without her knowledge or consent. **Or Share widely** (dissemination) the captured image to third party.
2. Such act done by **perpetrator** (offender) **or** by any other person at the behest (order) of offender.
3. The woman should have a reasonable expectation of not being observed. (She **expects privacy**)

S- 78. Stalking [**Follow woman + No interest + Repeatedness**]

Any man who

- ✓ **Follow** (unwanted approach) a woman and tried to contact any woman against her interest.
- ✓ The woman should not show any interest in the matter.
- ✓ The act of the man creates a certain repeatedness.

or

- ✓ **Watches** how a woman uses the internet, email, or any other electronic communication.

S- 79. Word, gesture or act +intended to insult modesty of a woman.

- ❖ **Intention to insult** the modesty of a woman.
- ❖ The insult must be **caused by**

- (a) Utters any word, **or**
- (b) Makes any sound or gesture, **or**
- (c) **Exhibits any object** with an intention that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, **or**
- (d) Interfering upon the privacy of such woman.

Offences relating to marriage

S- 80. Dowry death [Burns + Within 7 yr + Cruelty + Demand of dowry]

1. The death of a woman should be caused by burns or bodily injury or otherwise than under normal circumstances;
2. Such a death must have occurred **within 7 years** of her marriage;
3. She must have been subjected to **cruelty or harassment** by her husband or any relative of her husband soon before her death;
4. Such cruelty or harassment was related to the **demand of dowry**.

S- 82. Marrying again (Bigamy) during lifetime of husband or wife.

[Valid first marriage + Existence 1st wife/ husband + 2nd Marriage completed]

- ❖ **Existence of the first wife** or husband when the second marriage is celebrated. (i.e the first marriage should be a valid marriage.)

S- 84. Enticing or taking away or detaining with criminal intent a married woman.[Valid marriage + Wife of other + Taking away + Illicit intercourse]

- ❖ There exists a **valid marriage** between the complainant and the woman concerned.
- ❖ The accused had **knowledge** or reason to believe the woman to be the **wife of any other man**.
- ❖ The accused has **taken away** or enticed away the woman from her husband or from any person having the care of her on behalf of the husband.

- ❖ Such taking, concealing or detaining must be done **with the intent that she may have illicit intercourse** with other person outside the wedlock, not necessarily the accused himself.

S- 85. Husband or relative of husband of a woman subjecting her to cruelty. & 86 Cruelty defined. [Willful conduct + Injury + Harassment]

The term cruelty includes both **mental and physical cruelty**.

(a) Any **willful conduct** which is likely to **drive the woman** either to commit suicide or to cause grave injury or danger to life, limb or physical health or mental health of the woman, or

(b) "Harassment" of a woman, with a view to **coerce her** or her relatives, to meet unlawful demand for any property or valuable security, **is regarded as cruelty**.

S- 87. Kidnapping, abducting or+ inducing woman +to compel her marriage, etc.

- ❖ Kidnapping or abducting of any person.
- ❖ Such kidnapping or abducting must have an intent to
 - a) Compel her to marry against her will **or**
 - b) Force **or** seduce her to illicit intercourse.

OFFENCES AFFECTING THE HUMAN BODY

S- 100 Culpable homicide

[Death + Intention causing death / Bodily injury cause death + knowledge the act to cause death]

1. There must be a **death** of a human being.
2. The death must be caused by the **act of another** human being.
3. **The act should** have been done

(i) With the intention of causing death, **or**

(ii) With the intention of causing such **bodily injury** which is likely to cause death, **or**

(iii) With the **knowledge** that such act is likely to cause death.

S- 101 Murder [Death + Intention causing death /Bodily injury cause death/
**ordinary course of nature + knowledge the act to cause death + knowledge
the act is dangerous]**

Culpable homicide is murder,

(1) If the act is done **with the intention** of causing death; **or**

(2) If the act causing death was done with the **intention** to cause bodily injury
that the offender knew was likely to result in death; **or**

3) If the act causing death was done with the **intention** to cause bodily injury
that is sufficient to cause death **in the ordinary course of nature; or**

4) If the act is done with the **knowledge** that the act is so **imminently
dangerous** that it must in **all probability cause death**, or such bodily injury
as is likely to cause death.

S- 103(2) Mob lynching [Group of 5 + Commits murder + Act by agreement]

The provision nowhere expressly states that the term 'mob lynching' rather it states that when a **group of five or more persons acting in concert** commits murder on the ground of race, caste etc.

106 Causing death by negligence [No intention/Knowledge to cause death]

This section applies only when there is no intention to cause death, and no knowledge that the act would cause death.

Death is to be caused for which elements of negligent or rash act is necessarily to be present.

S- 109 Attempt to murder [Intention /knowledge + act towards commission]

- ❖ The **intention or knowledge** to commit murder.
- ❖ The accused must have made the attempt.(i.e having made preparation and with the intention to commit the offence, **he does an act towards its commission) i.e** Thus, it must have both mens rea and actus reus.

Note: Attempt to commit an offence can be said to begin when the preparations are complete.

S- 110 Attempt to commit Culpable Homicide [Intention /knowledge + Act towards commission]

Note: Ingredients of this section are the **same** of the preceding section except that it deals with an attempt to commit culpable homicide.

S- 111 Organised crime [A group + Unlawful activities (kidnapping/ Contract killing/ human trafficking/ Economic offences/ activity prohibited by law etc)]

Organised crime syndicate means a group of two or more people who, acting alone or together, as a gang or group, engage in ongoing illegal activities.

Unlawful activities means activity is carried on by use of violence, threat of violence, coercion, intimidation, or by any other unlawful means. Such activity is carried on to obtain direct or indirect, material benefit including a financial benefit.

Continuing unlawful activities are divided in to three categories.

1. Unlawful activities **specifically mentioned** in section 111(1).
2. Economic offences (i.e offence committed for obtaining the monetary benefits).
3. **Any other unlawful activities** other than those mentioned in (1) and (2).

1. Unlawful activities specifically mentioned in section 111(1):

Any continuing unlawful activity including **a)** Kidnapping **b)** robbery **c)** stealing vehicles **d)** extortion **e)** taking land illegally **f)** contract killing **g)** cybercrimes **h)** human trafficking for prostitution or ransom **i)** trafficking of persons, drugs, weapons or illicit goods or services

2. Economic offences (offence committed for obtaining the monetary benefits):

a) Counterfeiting currency- notes and Government stamps **b)** criminal breach of trust **c)** forgery **d)** hawala transaction **e)** running any scheme to defraud several persons **f)** mass-marketing fraud **g)** act done in any manner with a view to defraud any bank or financial institution or any other institution

3. Any other unlawful activities other than those mentioned in (1) and (2):

If the following criteria are met, then any other unlawful activity is considered a continuing unlawful activity:-

- a) an activity is prohibited by law.
- b) which is a cognizable offence punishable with imprisonment of 3 years or more.
- c) undertaken by any person , either singly or jointly, as a member of an organized crime syndicate.
- d) more than one charge sheets have been filled before a competent court within the preceding period of 10 years.
- e) that court has taken cognizance of such offence.

S- 112 Petty Organised crime [Part of a gang + Commit petty offences]

If you are **part of a group or gang and you, either alone or with others**, do any of the following:

Steal (theft)something, Snatch something, Cheat someone, Sell tickets without permission, Bet or gamble without permission, Sell public exam question papers, Or do any other similar crime

Scope of theft includes

Trick theft, cargo theft, pick pocketing, theft from vehicle , dwelling house or business premises, theft through card skimming, shoplifting and theft of ATM.

S- 114 Hurt [Causes bodily pain/ disease / infirmity]

Causes bodily pain, disease or infirmity (weakness) to any person.

S- 115 Voluntarily causing Hurt [Hurt + Intention / Knowledge]

Causing hurt to any person **with the intention or Knowledge**.

S- 116 Grievous Hurt [E, eye, hearing, joint, head, bone, Endanger life (15)]

Following hurts only are designated as “grievous”

- | | |
|---------------------------|--|
| 1. Emasculation | 5. Joint (Permanent impairment) |
| 2. Permanent eye loss | 6. Disfigure Head or Face |
| 3. Permanent hearing loss | 7. Fracture a bone or teeth |
| 4. Joint loss | 8. Any hurt Endanger life & 15 days severe pain. |

S- 117 Voluntarily causing Grievous Hurt [G. Hurt + Intention/ Knowledge]

Causing grievous hurt to any person **with the intention or Knowledge**.

117(3) -- Voluntarily causing grievous hurt to **permanent disability** or in persistent vegetative state.

117(4) -- Voluntarily causing grievous hurt **by group of persons**. (Mob lynching)

S- 118 Voluntarily causing hurt or grievous Hurt by dangerous weapons or means [G. Hurt/Hurt + Dangerous weapons + Dangerous means]

- ❖ Accused having knowledge that he was likely to caused hurt **or** grievous hurt/ **likely to cause death** to the victim.
- ❖ It was caused:

- a) **By any** shooting instrument; **or b)** By any stabbing instrument, **or**
- c) By any cutting instrument; **or d)** By any instrument, if used as a weapon of offence, likely to cause death;
- e) **By means** of poison; **or f)** By means of any explosive substance; **or**
- g) By means of any corrosive substance; **or h)** By means of any animal.

S- 126 Wrongful restraint [Obstruction + Prevention + Right to proceed]

1. Accused **obstructs** any person **voluntarily**;
2. The victim is **prevented from proceeding in any direction**;
3. Such victim has every **right to proceed** in that direction.

S- 127 Wrongful confinement [Wrongful restraint + Circumscribing Limits]

1. **Wrongful restraint** of a person,
2. The restraint must be to prevent that person from proceeding beyond certain **circumscribing limits**.
3. The person has the right to proceed beyond such limits.

Note: Restraint must be total and not partial one.

S-128 Force [(c) Motion + by own/by substance/by animal]

“A person is said to use force to another”

If offender **causes** motion, **change** of motion, **or cessation** of motion to other.

It is achieved by one of 3 ways:

1. By his own bodily power.
2. By disposing any substance (without any act by offender or any other person).
3. By inducing any animal to move.

S-129 Criminal Force [Force + Without consent + Committing an offence]

1. There must be a **use of force** intentionally.
2. Such force used should be **without consent**.
3. Such force used for committing an offence **or** intention to cause, injury **or** knowingly such force will **cause** injury ,**fear or annoyance** to other person.

S-130 Assault [Criminal force + Presence of person + Intention /knowledge + Apprehension]

1. The accused should make a **gesture or preparation** to use criminal force;
2. Such gesture or preparation should be made in the presence of the another person **&**
3. There should be an **intention or knowledge** on the part of the accused that such gesture or preparation **would cause apprehension** in the mind of the person that criminal force would be used against him; **and**
4. Such gesture or preparation has **actually caused apprehension** in the mind of the person of use of criminal force against him.

S-137 Kidnapping [Taking/enticing + Without the consent + lawful guardian]

Two kinds of kidnapping

a) Kidnapping from lawful guardianship

1. There must be **taking or enticing** of a child.

2. Taking or enticing must be from the lawful guardian of such child.
3. Taking or enticing must be done without the consent of such guardian.

b) Kidnapping from India

1. Person must be **conveyed** beyond the limits of India; and
2. Such conveyance must be **without the consent** of that person or someone legally authorised to consent on behalf of that person.

S- 138 Abduction [Forceful compulsion/ inducing + to go from any place]

1. **Compelling** an individual by force or **inducing** by deceitful means.
2. Such compulsion causing such individual to go from any place.

OFFENCES AGAINST THE PUBLIC TRANQUILITY

S- 189 Unlawful assembly [5 persons + Common object + (5)Use criminal force/Resist/Commit offences]

‘Assembly’ means company of persons assembled together in a place for a **common purpose**.

- ❖ There is an assembly of **five or more persons**.
- ❖ They must have a **common object**; and
- ❖ The common object must be **one of the five specified** in the section which are as under

- 1) Intimidate (threaten/overawe) the Government or its officers by **criminal force**.
- 2) **Resist** the execution of law or legal process.
- 3) **Commit offences** like mischief, criminal trespass or any other offence.
- 4) Possess or dispossess any property by use of **criminal force**.

5) Use **criminal force** to compel a person to do an illegal act.

S- 190 Every member of unlawful assembly guilty of offence committed in prosecution of **common object**.

[Unlawful assembly + Criminal act + Prosecution of the common object]

- d) There must be an **unlawful assembly**, as defined in section 189.
- e) Criminal act must be **done by any member** of such assembly.
- f) Such act must be done **for the prosecution of the common object** of the assembly **or** members of that assembly (group) knew that the act was likely to be committed.

S- 191 Rioting [Member of Unlawful assembly + Use of force/ Violence + For common object]

- ❖ There should be an **unlawful assembly** (Section 189 BNS).
- ❖ **Force or violence** is used by the member of unlawful assembly.
- ❖ Act must be done in prosecution of **common object**.

OFFENCES AGAINST PROPERTY

S- 303. Theft. [Dishonest intention + Moving of property]

1. **Dishonest Intention** to take property (*Mens rea – Dishonest intention*)
2. **Taking out** of the **possession** of another person
3. The property **must be moved** in order to such taking (*Actus reus – Moving of property*)
4. Property should be taken **without** the person's **consent**.
5. Property must be **movable**.

S- 304. Snatching. [Theft + Suddenly/ quickly]

Offender **suddenly** or quickly or forcibly **seizes** or **secures** or **grabs** or **takes away** from any person or from his possession **any tangible** movable **property**.

Snatching involves theft. However, every theft does not amount to snatching. Snatching can be only of tangible movable property.

S- 308. Extortion [Fear of injury + Delivery of property]

1. Accused intentionally putting a person in **fear of injury** to his person or to any other person.
2. thereby accused **dishonestly induces** the person put to fear. (There must be a dishonest intention)
3. **to deliver** to any person, any property /valuable security.(Actus reus - Deliver of property)

309. Robbery [Aggravated form of theft or extortion]

Robbery is a special and aggravated form of either theft or extortion. The chief distinguishing element in robbery is the **presence of imminent fear of violence**.

"In all robbery there is either theft or extortion." Therefore, for the offence of robbery, it is essential that all the elements that constitute either theft or extortion must be present.

In both theft and extortion "**dishonest intention**" is essential ingredient that is required, consequently an offence cannot be robbery until and unless it is done "dishonestly"(. **Mens rea** – Dishonest intention.)

When Theft is robbery

Robbery = [**Cause** death/hurt/WR **or** Cause **fear** of instant death + for committing **Theft**]

- ❖ When someone **voluntarily causes** or **attempts to cause** to any person:
 - (a) Death or hurt or wrongful restraint; **or**
 - (b) Fear of instant death or instant hurt or instant wrongful restraint.

- ❖ The above acts must be done in order to the **committing of theft**, or in committing theft, **or** in carrying away, or attempting to carry away property obtained by theft.

When Extortion is robbery

Robbery = [Offender present at the crime scene + **Put** fear of **instant** death/hurt/WR + for committing extortion -- **immediate** delivery]

- ❖ The offender **is** in the near presence of victim at the time of commission of offence **and**
- ❖ Putting the victim in **fear of instant death**, instant hurt or instant wrongful restraint either for himself or some other person **and**
- ❖ The offender **induces the victim** to deliver the property at that very instant.

S- 310. Dacoity (Gang robbery) [5 persons conjointly + Robbery]

Dacoity is an **aggravated form of robbery** committed by **5** or more persons.

1. Five or more persons **act conjointly**;
2. Such act must be **robbery or attempt** to commit robbery;
3. The **5** persons must **consist** of those who are present and **assists other** in doing the crime.

S- 314. Dishonest +misappropriation+ of property

1. Dishonest intention
2. Misappropriation or conversion of property for **own use**
3. Movable property

S- 316. Criminal breach of trust

[Entrustment + Dishonest misappropriation of property]

- ❖ **Entrustment** of property to the person.
- ❖ Accused dishonestly **misappropriating or** converting such property to his own use.

S- 317. Receiving Stolen property [Accuses aware + Dishonestly received]

1. Property must be stolen property (obtained by Theft/ Extortion / Robbery / Criminal misappropriation of property / Criminal breach of trust).
2. Person **dishonestly** received or retained
3. Accused was **aware** or had reason to believe that the property was stolen.

S- 318. Cheating [Deception + Inducement]

1. **Deception** of any person.
2. Fraudulently or dishonestly **inducing** that person-
 - i) to **deliver** any property to any person. **or**
 - ii) to **consent** that any person shall retain any property. **or**
3. **Intentional inducement** of doing **or** omission of doing which causes damage or harm to that person in body / mind / reputation / property.

S- 319 Cheating by personation [Pretending + substituting + Representing]

1. **Pretending** to be some other person,
2. Knowingly **substituting** one person for another.
3. **Representing** that he is a person other than he really is.

Example

1. if A **pretends** to be a rich banker of the same name./
2. if A goes and writes a competitive exam **on behalf of** B./
3. if A enters into second marriage by dishonestly concealing the fact of his previous marriage and **representing** himself as a bachelor.

S- 324 Mischief [Intention/ knowledge + Cause & Effect]

1. an **intention or knowledge** of likelihood to **cause wrongful loss** or **damage to** the public or any person &
2. causing the destruction of some property or **any change** in it or in its situation (actus reus of mischief), &
3. Such change must destroy or **diminish** its value or utility or affect it injuriously (**effect of the change**).

S- 329 Criminal trespass and house-trespass

[Unauthorized entry + Unlawfully remaining + Intent to commit an offence]

- 1 There should be an **unauthorized entry** on the property of another person.
- 2 If such entry is lawful, then **unlawfully remaining** such property.
- 3 Such entry or unlawful remaining must be **with intent to commit an offence or**
to intimidate, insult, or annoy the person in possession of the property.

Note: Criminal force is not necessary.

house-trespass : [Criminal trespass + 3 types of places (building, worship, custody of property)]

House-trespass is an aggravated form of Criminal trespass.

Whoever commits criminal trespass **by entering into**

- ✓ human dwelling (building/tent/vessel) **or**
- ✓ a place of worship **or**
- ✓ place for the custody of property.

Note: The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

S- 330 Lurking House-trespass & house breaking [House-trespass + Secret]

Lurking house-trespass is an aggravated form of house-trespass.

“If criminal trespass is committed in a **Secretive manner**, it is treated as lurking house trespass.”

The accused must have taken necessary measure/precautions **to conceal such** trespass from the owner of the property.

House breaking : [House-trespass + Entry/Exit in one of the 6 Ways]

House breaking is an more **aggravated form** of house-trespass.

“Whoever commits house trespass **by entering** into house **or leave** the house by the entrance of the house or any part of the house in any of the **following 6 ways:-**

Housebreaking can happen in six different ways,:

1. Through a passage **made by the trespasser** himself.
2. Through any passage **not used by anyone else.**
3. Through any passage opened for the purpose of committing housebreaking but it is **not usually to be opened by owner.**
4. By **opening any lock.**
5. By **using criminal force** at either the entrance or the exit.
6. **Unfasten** anything tied to the entrance by trespasser or abettor of the trespass.

Exp: Any small building or room directly connected to the main house is **considered part of the house.**

OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

S- 335. Making a false document. [Dishonestly/fraudulently + Make/affixes doc / alter doc / someone else to sign]

Who dishonestly or fraudulently

(A)

- ❖ **makes, signs**, seals or executes a document or part of a document;
- ❖ makes or **transmits any electronic record** or part of any electronic record;
- ❖ **affixes** any electronic signature on any electronic record;
- ❖ **makes** any mark that **shows** a document was **completed**/authentic or an electronic signature is real, **intending to make others believe** that the document, electronic record, or electronic signature was made, signed, sealed, **completed, but, actually** **respective authority did not make , sign, seal, execute.**

(B) or

- ❖ Who, **without lawful authority**, dishonestly or fraudulently, **cancellation or alters (change) a document** or an electronic record **after** it has been **completed** by himself or by someone else, whether that **person is alive or dead at the time of the alteration.**

(C) or

- ❖ Who dishonestly or fraudulently, **get someone else to sign, seal, execute, or change a document or electronic record**, or to put their electronic signature on an electronic record, **knowing** that the other person **can't understand because** they are **intoxication**, unsoundness of mind.

S- 336. Forgery. [Making a false document + intent to cause damage]

- ❖ **Makes any false document** (S 335 BNS) or false electronic record or part of the document or electronic record.
- ❖ Such making should be **with intent**, to cause damage **or** injury to public **or** any person **or** to commit any **other** fraud.

CRIMINAL INTIMIDATION, INSULT, ANNOYANCE, DEFAMATION,

351. Criminal intimidation. [Threatening + Intent to injury]

Threatening a person with an injury to his **person, reputation** or **property**

And

The threat must be **with the intent**

to cause alarm (i.e fear) to that person, **or**

to cause that person to do an act which he is **not legally bound** to do in order to prevent execution of such threat, **or**

*to cause that person to **omit to do any act*** which that person is legally entitled to do in order to prevent execution of such threat.

Exp: A threat to injure the **reputation of** a deceased person in which the threatened party is interested, is within this section.

S- 352. Intentional insult + with intent to provoke + breach of peace.

- Intentionally insulting a person and thereby **giving provocation** to him.
- The person insulting must intend or know it to be likely that such **provocation will cause him to break the public peace** or to commit any other offence.

S- 356. Defamation. [False statement + Harm the reputation + Published]

1. There must be a **false statement** [words,(either spoken or written) or signs; or visible representations.]
2. Such false statement should have been made **with intent to harm or** knowing **or** having reason to believe that it will **harm the reputation** of the other.

3. This false statement must be **published**/must be communicated to at least one person.

(**Libel** – writing statement, **Slander** - Verbal statement)

