



**NEWLY ADDED PROVISIONS IN BNS,2023**

1(2)	Commencement
2(3)	"child" means any person below the age of eighteen years
4(f)	Community service
48	Abetment outside India for offence in India
69	Sexual intercourse by employing deceitful means, etc
95	Hiring, employing or engaging a child to commit an offence
103(2)	Murder by group of persons ( <b>Mob lynching</b> ) on certain grounds
106(2)	Hit and Run (Causing death by negligence)
111	Organised crime.
112	Petty Organised crime
113	Terrorist act
117(3)	Voluntarily causing grievous hurt to permanent disability or in persistent vegetative state
117(4)	Voluntarily causing grievous hurt by group of persons ( <b>Mob lynching</b> )
152	Act endangering sovereignty, unity and integrity of India.
197(1)(d)	197(1)(d)- makes or publishes false or misleading information, jeopardising the sovereignty, unity and integrity or security of India
226	Attempt to commit suicide to compel or restrain exercise of lawful power
304	Snatching
305(b)	Theft of any means of transport
305(c)	Theft of any article or goods from any means of transport
305(d)	Theft of idol or icon in any place of worship
305(e)	Theft of any property of the Govt or of a local authority
308(1)(e)	Extortion Illustration
324 (3)	Punishment for Mischief causing loss <b>to Government</b> or Local Authority.
324(5)	Punishment for Mischief causing loss of <b>one lakh or more.</b>
341 (3)	Punishment for Possess any seal, plate or other instrument knowing the same to be counterfeit
341(4)	Punishment for Fraudulently or dishonestly uses as genuine any

	seal, plate or other instrument
358	Repeal and savings

**\* The BNS, 2023 Act does not specify a heading for several of the newly added subsection. But the subheadings are provided here so that you can easily grasp and memorize the new sub clause.**

## **1(2) Commencement**

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

The Centre has implemented BNS Act effective July 1, 2024. Section 106(2) has not yet been enforced.

## **2(3) "child" means any person below the age of eighteen years**

Uniformity has been introduced in the use of expression 'child' throughout the BNS, 2023 which is achieved by replacing the expression 'minor' and 'child under the age of eighteen years' with the word '**child**'.

## **4(f) Community service**

Section 4 of the BNS act introduced the Community service (4(f)) as the sixth type of punishment. The aim of the punishment is to reform the present criminal justice system. Community service can be awarded for the benefit of various groups in need, including children, the elderly, people with disabilities, and language learners. Additionally, it can be used to provide help to animals in shelters or can contribute to the improvement of public places such as local parks, historic sites, scenic areas, and more.

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

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 ₹5,000. (**S – 303(2)**)
5. Public misconduct by a drunken person (**S – 355**)
6. Defamation (**S – 356**)

The following penalties apply under BNS for failing to pay a fine or default of community service:

1. Fine not exceeding ` 5000 or community service – Imprisonment not exceeding 2 months
2. Fine not exceeding ` 10,000 or community service – Imprisonment not exceeding 4 months
3. In any other case – Imprisonment not exceeding 1 year

Community service is not defined in section 2 of BNS act. But, it is defined in BNSS act, section 23(3). “Community service” shall mean the work which the Court may order a convict to perform as a form of punishment that benefits the community, for which he shall not be entitled to any remuneration.”

It may be relevant to note under section 18(c) of the Juvenile Justice (Care and Protection of Children) Act, 2015 a juvenile may be directed to undertake Community Service as a penalty.

#### **Section 48: Abetment outside India for offence in India.**

The addition of section 48 is a noteworthy development, extending the jurisdiction of the BNS beyond national borders. Section 48 provides that a person abets an offence within the meaning of this section who,

- Without and beyond India
- Abets the commission of any act in India
- Which would constitute an offence if committed in India

A person is considered to be helping commit a crime under this law if they encourage or assist in committing a crime in India, even if they are outside of India.

#### Illustration

If A, who is in country X, encourages B to commit a murder in India, A is guilty of helping to commit the murder.

A new offence has been added under section **48** BNS which punishes any person (including a foreigner) who while being outside India abets the commission of an offence in India.

#### Example :

Aravind, who lives in the UK, calls his friend Suman in India and tells him he needs to hack into a government database there. After planning to hack, Suman actually does it. Part 48 of the Bharatiya Nyaya Sanhita 2023 says that Aravind is accused of helping cybercrime happen in India, even though he is in the United Kingdom.

### **Section 69: Sexual intercourse by employing deceitful means, etc.**

While rape involves total absence of woman's consent to sexual intercourse, offence under this section is about procuring her consent through deceitful means and false promises. Anyone who tricks a woman into having sex with them, or promises to marry her without actually planning to do so, and has sex with her (but it is not considered rape), can be punished with up to ten years in prison and may also have to pay a fine.

Since "woman" is mentioned, both married and single women may be included. This means that adultery is also included in an indirect manner.

Explanation. - "Tricks" include things like falsely promising a job or a promotion, or hiding one's true identity to get married.

#### Example :

An engineer at a company named Rajesh tells his coworker, Meena, that he can get her promoted if she agrees to sex with him. Meena reluctantly agrees because she thinks it will help her job. But after the act, Meena finds out that Rajesh lied to her about his power over promotions and was only interested in using her physically. Meena tells the police about Rajesh's dishonest behavior. Section 69 of The Bharatiya Nyaya Sanhita 2023 says that Rajesh can be punished for having sexual relations with Meena by lying to her.

### **Section 95: Hiring, employing or engaging a child to commit an offence.**

When an offence is committed, even though it was done by a child, the offender will still face the same consequences as if he had done it himself. This is because child cannot be punished. (Refer :Exception Chapter)

If anyone hires, employs, or uses a child to commit a crime, they will be punished imprisonment at least three years and up to ten years, and they will also have to pay a fine. It includes issues of child exploitation and pornography, showing a dedication to protecting the well-being of children.

#### Example :



A woman named Arya forces a 16-year-old girl named Meera to help her make explicit films for her illegal online pornography business. Arya tells Meera that she will give her a lot of money and that no one will find out. Section 95 of The Bharatiya Nyaya Sanhita 2023 says that Arya can be imprisoned for at least three years and no more than ten years and have to pay a fine. Arya will also have to deal with extra punishments that are typical for people who commit crimes involving sexual abuse and pornography.

### **Section 103: Punishment for murder.**

#### **103(2) Murder by group of persons (mob lynching) on certain grounds**

Section 103(2) of BNS Act has included a provision for incident like mob lynching. 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.

The inclusion of specific provision for mob lynching appears to be a step in the direction recommended by the Supreme Court in *Tehseen Poonawalla Vs Union of India*, 2018. Section 103(2) of BNS is a new provision which provides criminal liability and punishment for killing in a mob.

#### **The Supreme Court's Guidelines on Preventing Mob Lynching (*Tehseen Poonawalla Vs Union of India*, 2018)**

The state governments shall designate a senior police officer in each district for taking measures to prevent incidents of mob violence and lynching.

The state governments shall immediately identify districts, sub-divisions and villages where instances of lynching and mob violence have been reported in the recent past.

The nodal officers shall bring to the notice of the Director General of Police (DGP) any inter-district co-ordination issues for devising a strategy to tackle lynching and mob violence-related issues.

It shall be the duty of every police officer to cause a mob to disperse, which, in his opinion, has a tendency to cause violence in the disguise of vigilantism or otherwise.

The Central and the state governments should broadcast on radio and television and other media platforms including the official websites that

lynching and mob violence of any kind shall invite serious consequence under the law.

Curb and stop the dissemination of irresponsible and explosive messages, videos and other material on various social media platforms which have a tendency to incite mob violence. Register FIR under relevant provisions of law against persons who disseminate such messages.

State governments shall prepare a lynching/mob violence victim compensation scheme.

Ensure that there is no further harassment of the family members of the victims.

If a police officer or an officer of the district administration fails to do his/her duty, the same will be considered as an act of deliberate negligence for which an appropriate action must be taken against him/her.

Example :

A group of six individuals, all belonging to the same community, planned and executed the murder of a person from a different caste in a village in Kerala. The murder was motivated by caste-based discrimination. Under Section 103(2) of The Bharatiya Nyaya Sanhita 2023, each member of the group is charged with murder. If found guilty, each member could face the death penalty or life imprisonment, and they may also be required to pay a fine.

**Section 106: Causing death by negligence.**

Section 106(2) : Hit & Run(Offender escaping or failing to report)

Section 106(2) introduces an additional provision in sub-section (2) to section 106 of BNS, which addresses situations where the offender escapes from the scene of the incident without reporting it to a police station or Magistrate after the incident. In such cases, the punishment is very severe, with a maximum term of imprisonment of ten years with fine. Offence is committed only if escape from scene is coupled with non-reporting by him to Police/Magistrate soon after the incident.

Punishment under section 106(2) is not attracted merely by virtue of driver escaping the scene after the incident to escape the anger of bystanders who might mob lynching him.

Example :

In a residential area, Anita was driving her car very fast, going much faster than the speed limit. The driver lost control of the car and hit a person on the sidewalk, killing the person. Anita did not stop to report what happened to the police or a Magistrate. Instead, she ran away. Anita could get up to ten years in imprisonment and a fine under Section 106(2) of the Bharatiya Nyaya Sanhita 2023 for killing someone by driving carelessly and quickly and then running away without telling anyone about it.

## **Section 111: Organised crime.**

### **Ingredients of organized crime**

*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 into 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)

**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

**Note :** There is no definition of cyber crime in BNS/BNSS/IT Act 2000. Therefore, the terms 'cyber-crimes' has to be understood in its ordinary popular connotation.

The examples of cyber crimes are

a) Online gambling, b) E mail phishing, c) Online financial fraud, d) online matrimonial fraud, e) cryptocurrency related crime f) online trafficking etc.

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

**Classification of offence**

SECTION	OFFENCE	PUNISHMENT
111(2)	a) Committing Organised crime resulting into death in cases other than above b) In any other case	a) Death or imprisonment of life and fine not less than Rs.10 lakh b) Imprisonment for Not less than 5 years but may extend to imprisonment for life and fine not less than Rs. 5 lakh
111(3)	Abetting, attempting, conspiring, facilitating the commission of organised crime	Not less than 5 years but may extend to imprisonment for life and fine not less than Rs. 5 lakh
111(4)	Being a member of organised crime syndicate	Not less than 5 years but may extend to imprisonment for life and fine not less than Rs. 5 lakh



111(5)	Intentionally harbouring or concealing any person who has committed an organised crime	Not less than 3 years but may extend to imprisonment for life and fine not less than Rs. 5 lakh
111(6)	Possessing any property obtained from the commission or proceeds of an organised crime	Not less than 3 years but may extend to imprisonment for life and fine not less than Rs. 2 lakh
111(7)	Possessing movable or immovable property on behalf of member of an organised crime, not satisfactory account for	Not less than 3 years but may extend to imprisonment for 10 years and fine not less than Rs. 1 lakh

**Example :**

Over the past five years, Sundar and his friends have done a whole bunch of illegal things. They have done many bad things, like taking people for ransom, extorting money from local businesses, and stealing cars. They work as a well-organized gang and scare their victims by making threats and using violence. Several charges have been brought against them by the police, and the court is aware of these crimes. The Bharatiya Nyaya Sanhita 2023 says that Sundar and his friends are guilty of organized crime under Section 111. There is a possibility that they will be put to death or spend the rest of their lives in jail, along with a fine of at least 10 lakh rupees. If they did something else, they could go to imprisonment for at least five years, which could go up to life, and be fined at least five lakh rupees.

The Punjab and Haryana court clarified in *Suraj Singh @ Noni Vs State of Punjab (2024)*, that “To bring an offence into the four corners of an organized crime, the offence must fall under a category described in S. 111 of BNS, 2023. The prima facie evidence must be legally admissible to constitute any continuing unlawful activity to constitute an organized crime as defined in S. **111 BNS.**”

Without legally admissible prima facie evidence, the State cannot make any suspect undergo custodial interrogation to hunt for such evidence against the suspect or others. The evidence must be gathered first to make out a prima facie case within the scope of S. 111 of BNS, and such evidence alone would justify custodial interrogation to carry out further investigation, added the Court

**Section 112: Petty Organised crime.**

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

- Steal 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
- Then you are committing a petty organised 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. The theft terms are not defined in BNS.

#### Punishment for petty organized crime:

Imprisonment for a term which shall not be less than one year but which may extend to seven years, and shall also be liable to fine.

#### Offence of theft/snatching/cheating is punishable under this section:-

If offender committing “theft or snatching or cheating” is a member of a gang group, offence is punishable under this section.

If he commits it as a single-handed (not part of any group), it will be punishable under section 303,304,318 respectively.

#### Example :

As part of a small group in Mumbai called Rajesh, they like to steal things from busy local trains. Rajesh and his friends decide to attack a busy train during rush hour one day. Rajesh takes a number of wallets and cell phones from people who aren't looking. Section 112 of The Bharatiya Nyaya Sanhita 2023 says that Rajesh is guilty of minor organized crime because he is part of a group that steals things in a planned way. Ravi could go to imprisonment for one to seven years and be fined as well.

#### **Section 113: Terrorist act.**

It is for the first time that the offence of terrorism has been introduced in the general law of the land and act of terrorism defined. Section 113 has been

drafted on the lines of UAPA (Unlawful Activities (prevention) Act, 1967). It provides punishment for the commission, attempt, abetment, conspiracy, being member of any terrorist organization, recruitment or organizing camp for training, harboring or concealing any person who has committed terrorist act, proceeds of crime/property obtained or derived by commission of a terrorist act with the option of death or life imprisonment without parole.

Counterfeiting Indian currency has also been covered under this section as a terrorist act like UAPA. Destruction of any property in India or abroad, disruption of essential services and damage to the monetary stability of India has been covered under this section.

The provision recognizes the term "public functionary," encompassing constitutional authorities and other functionaries notified by the Central Government. Criminal force or attempts to cause death to a public functionary falls under the purview of terrorism. Destruction of public facilities or private property is now criminalized under terrorist act.

This section addresses terrorism beyond International borders. The section encompasses acts that result in the "causeable damage by way of destruction of critical infrastructure," recognizing the global threat of international terrorism and special attention is given to vulnerabilities posed by cyber-attacks on critical infrastructures.

**Note:** 1. Section 113(6) shall not apply if the person hiding the offender is their spouse.

2. Police officer rank of SP and above shall only decide whether offence to be registered under UAPA or under this section (113).

## **Section analysis**

### **Section (1)**

Anyone who does something with the intention to threaten or is likely to threaten the unity, integrity, sovereignty, security, or economic security of India, or to cause fear among people in India or any other country, --

(a) by using bombs, dynamite, or other explosive or flammable substances, firearms, lethal weapons, poisonous gases, chemicals, or any other dangerous materials (whether biological, radioactive, nuclear, or otherwise) to cause or likely to cause, -

- (i) death or injury to any person or people; or
- (ii) loss, damage, or destruction of property; or
- (iii) disruption of essential supplies or services for the community in India or any other country; or
- (iv) harm to India's monetary stability by producing, smuggling, or circulating fake Indian currency or coins; or
- (v) damage or destruction of any property in India or another country used for India's defense or other government purposes; or
- (b) intimidates by using criminal force or showing criminal force, or tries to do so, or causes the death of any public official or tries to cause their death; or
- (c) detains, kidnaps, or abducts any person and threatens to kill or injure them to force the Government of India, any State Government, a foreign government, an international organization, or any other person to do or not do something, commits a terrorist act.

Explanation. - For this section, -

- (a) "public functionary" means constitutional authorities or any other official notified by the Central Government as a public functionary;
- (b) "counterfeit Indian currency" means fake currency that imitates or compromises the key security features of Indian currency, as declared by an authorized forensic authority.

### **Classification of offence**

SECTION	OFFENCE	PUNISHMENT
113(2)	a) Committing a terrorist act resulting in death of any person b) In any other case	a) <b>Death or imprisonment for life</b> and fine b) Imprisonment for <b>not less than 5 years</b> but may extend to imprisonment for life and fine
113(3)	Abetting, attempting, conspiring, facilitating the commission of	Imprisonment for <b>not less than 5 years</b> but may extend to

	terrorist act etc.	imprisonment for life and fine
113(4)	Organizing any camp for imparting training or recruiting any person for commission of terrorist act etc.	Imprisonment for <b>not less than 5 years</b> but may extend to imprisonment for life and fine
113(5)	Being a member of an organization involved in terrorist act	Imprisonment for <b>life and fine</b>
113(6)	Voluntarily harbouring or concealing any person who has committed a terrorist act or its attempt	Imprisonment for <b>not less than 3 years</b> but may extend to imprisonment for life and fine
113(7)	Knowingly possessing any property or obtained from commission of any terrorist act	Imprisonment <b>for life and fine</b>

#### Example 1:

Ravi, who is angry, plans to cause trouble by setting off a bomb in a Delhi market that is crowded with people. He wants to scare people and get in the way of their daily lives. The bomb goes off, hurting several people and doing a lot of damage to shops nearby. Section 113 of The Bharatiya Nyaya Sanhita 2023 says that Ravi's actions were terrorist acts because he used an explosive substance with the purpose to cause harm and damage to property. Ravi could get life in imprisonment or even the death penalty if someone dies.

#### Example 2:

Meera, a member of a terrorist organization, is caught with a large sum of counterfeit Indian currency. She was going to use this money to support terrorism and make the Indian economy less stable. According to Section 113, especially Section (1)(a)(iv), Meera's possession of fake money with the goal of hurting India's money supply is a terrorist act. She could go to imprisonment for a period of time that could go up to life, and she would also have to pay a fine.

### **Section 117: Voluntarily causing grievous hurt.**

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

Section 117 (3) is aggravated form of voluntarily causing grievous hurt. More stringent punishment has been made for subsection 3 and 4. Separate



provisions have been introduced under section 117(3)/(4) BNS for grievous hurt resulting in persistent vegetative state or permanent disability and in cases of mob lynching.

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

The criminalization of act of causing grievous hurt due to mob lynching as a distinct offence under section 117(4) addressing a growing societal menace. It would not only aid in delivering justice to the victims and their families but also sends a strong message regarding the gravity of such crimes.

Vegetative state (minimally conscious state but not coma state) : a person's eyes may be open, but they don't show signs of awareness, such as responding to commands or speaking.

#### **Example 1:**

Anita, angry at her coworker Priya, throws acid in her face with the goal of permanently altering her appearance. Priya gets badly burned and can't see out of one eye. Anita willfully hurt someone very badly. Since the injury left the person permanently disabled, Anita can be punished by strict imprisonment for at least ten years, which could go up to life.

#### **Example 2: (Mob lynching)**

A group of six people, including Raj, pick on a guy named Imran because of his religion during a riot. They beat him very badly, breaking several bones and hurting him inside so much that Imran had to stay in bed for months. Raj and the rest of the group are all guilty of causing grievous harm on purpose and can be sentenced to up to seven years in imprisonment and a fine.

#### **Section 152: Act endangering sovereignty, unity and integrity of India.**

According to BNS,2023, the new clause terms used “ the act of endangering sovereignty, unity, and integrity of India instead of “sedition”. Under the sedition law, individuals found guilty of promoting discontent or disaffection towards the Government could face life imprisonment. The BNS act maintains concern for national integrity and sovereignty but rephrases the offence.

The Section (124A of the IPC) relating to sedition was misused and hence has been deleted. The constitutionality of section 124A was challenged before the Hon'ble Supreme court in *S.G. Vombatkere Vs Union of India*,(2022). The

Supreme Court directed all the State Governments and the Central Government to keep all pending trials, appeals and proceedings arising out of charged framed under section 124A in abeyance. The Union of India assured the Hon'ble Supreme court that it has been re-examining Section 124A.

This section(152) includes crucial mensrea requirement by using the terms “purposely or knowingly”, ensuring that intent is a key factor for establishing guilt. This section aims to balance the freedom of speech and expression with maintaining public order. It also provides an exception for lawful criticism of government, allowing for disapprobation that seeks change through legal means without inciting prohibited activities. It also explicitly covers electronic communications and financial transactions as criminal acts under this section.

This section is not applicable to the editor or publisher of any publication registered and conformity with the rules laid down in the press and Registration of periodicals Act,2023.

### **Section analysis**

Whoever, on purpose or knowingly, by speaking, writing, using signs, showing something, using electronic communication, using money, or any other way:

Tries to start or actually starts a movement to break away from the country, or

Tries to start or actually starts an armed rebellion, or

Tries to start or actually starts activities that undermine the government, or

Encourages feelings of separation, or

Puts the country's sovereignty, unity, or integrity in danger,

shall be punished with life imprisonment or imprisonment up to seven years, and may also have to pay a fine.

### **Explanation**

Comments that criticize government actions or measures with the aim of changing them through legal means, without trying to start or encourage the activities mentioned above, do not count as an offence under this section.

### **Example 1:**

Ravi is a popular person on social media, and he has a YouTube account where he posts a series of videos calling for one state to leave India. He says hurtful things and tells his fans that the only way to get what they want is to fight the government. People think that what he did was an attempt to start an armed revolt and put India's unity and integrity at risk. Under Section 152 of The Bharatiya Nyaya Sanhita 2023, Ravi could be charged with putting India's sovereignty, unity, and dignity at risk. If found guilty, he might be imprisoned for life or up to seven years and have to pay a fine.

Example 2:

Meera, a writer, puts out an article in a famous magazine saying that a part of India should break away from India and become its own country. She writes in a convincing way to get people to back separatist activities and reject the Indian government's authority. People think that her piece is an attempt to stir up secessionist feelings and do illegal things. Section 152 of The Bharatiya Nyaya Sanhita 2023 says that Meera could be charged with a crime and given a fine or life in imprisonment, or both.

**Section 197: Imputations, assertions prejudicial to national integration.**

**197(1)(d)- makes or publishes false or misleading information, jeopardising the sovereignty, unity and integrity or security of India**

“Electronic communication” is added as one of the methods of circulating designated activities under section 197 of the BNS

Act of making or publishing false or misleading information which has tendency to jeopardise the sovereignty, unity, integrity or security of India has been added as a new offence under section 197(1)(d) BNS.

Example :

An article on an online news site gives misleading data about a linguistic minority group and says they are involved in activities that threaten India's integrity. This article quickly goes viral on social media, making a lot of people scared and suspicious. The editor and publisher of the news portal could be charged under Section 197(1)(d) of the Bharatiya Nyaya Sanhita 2023 for putting India's security at risk by spreading false or misleading information. They could face up to three years in imprisonment, a fine, or both.

## **Section 226: Attempt to commit suicide to compel or restrain exercise of lawful power.**

Attempt to commit suicide under section 309 IPC has been deleted in the Sanhita keeping in mind the directions of the Supreme Court in *Aruna Ramachandra Shanbaug Vs Union of India and others*, 1994. However, a new offence has been added under section 226 of BNS, which penalizes attempt to commit suicide to compel or restrain official duty.

Judge trying the case is given option to award sentence of community service for the offence instead of imprisonment or fine or both.

### **Section analysis**

- Whoever
- Attempts to commit suicide
- With the intent to compel or restraint any public servant from discharging his official duty

### **Example :**

A woman from a small town named Meena gets angry at the police officer who arrested her brother on theft charges. Meena takes a bottle of sleeping pills in front of the police station and plans to kill herself if her brother is not let go. She does this to get the officer to free her brother. Section 226 of The Bharatiya Nyaya Sanhita 2023 says that Meena could be punished for trying to kill herself to stop the officer from doing his legal job.

## **Section 304: Snatching.**

Theft would cover theft of all kinds of movable property whether corporeal or non-corporeal. Theft would cover theft of intangible assets as also theft of data/theft of identity.

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

Snatching has shown itself as one of the largest threats to all strata of society, predominantly women and the elderly. It is pertinent to mention that it is one of the new offences that have been introduced in the New Criminal Laws. The rising incidents of chain snatching, and mobile phone snatching, which contain sensitive data, financial information, and passwords necessitated the addition of a section to punish the same. Theft is considered “snatching” if,



with the intent to commit theft, the offender suddenly, quickly, or forcibly seizes, secures, grabs, or takes away any movable property from any person or their possession.

Example :

Ramya is holding her bag while she waits for the bus in Delhi. A thief quickly comes up behind her, takes the bag from her, and runs off. The act of quickly and violently taking the purse from Ramya is called snatching under Section 304 of the Bharatiya Nyaya Sanhita 2023. Depending on how the thief is caught, they could go to imprisonment for up to three years and have to pay a fine.

**Section 305: Theft in a dwelling house, or means of transportation or place of worship, etc.**

**305(b) Theft of any means of transport**

**305(c) Theft of any article or goods from any means of transport**

**305(d) Theft of idol or icon in any place of worship**

**305(e) Theft of any property of the Govt or of a local authority**

The domain of offence of theft has been expanded to include theft of vehicle, theft from vehicle, theft of government property and theft of idol or icon from any place of worship. In Section 305 of the BNS, 2023 such thefts have been made punishable with punishment up to 7 years.

Example 1:

An employee of a municipal corporation in Chennai steals office equipment worth Rs 50,000 from the corporation's office. Since the theft involves property of a local authority, the employee can be charged under Section 305 of The Bharatiya Nyaya Sanhita 2023 and may face imprisonment for up to seven years and a fine.

Example 2:

A thief steals a motorcycle used by a courier service to deliver packages in Bangalore. Since the theft involves a means of transport used for the transport of goods, the thief can be charged under Section 305 of The Bharatiya Nyaya Sanhita 2023 and may face imprisonment for up to seven years and a fine.

**308(1)(e) Extortion - Illustration**



(e) A threatens Z by sending a message through an electronic device that "Your child is in my possession, and will be put to death unless you send me one lakh rupees." A thus induces Z to give him money. A has committed extortion.

A sends a message saying he will kill Z's child unless Z sends him one lakh rupees. Z gives him the money. A has committed extortion.

### **Section 324: Mischief.**

#### **324(3) Punishment for Mischief causing loss to Government or Local Authority.**

The offence of mischief in Section 324 of BNS has been expanded and causing loss or damage to any property including the property of Government or Local Authority has been made punishable offence with imprisonment extendable up to one year, or with fine, or with both (as against just 6 months or with fine, or both for offence of mischief).

#### **324 (5) Punishment for Mischief causing loss of one lakh or more.**

In case of loss or damage is of more than 20,000 rupees but less than one lakh rupees the punishment is extended up to two years, or with fine, or with both. Where loss or damage is above one lakh rupees the punishment would be imprisonment extendable up to five years, or with fine, or with both.

#### **Example :**

A person called Somu throws rocks at a government building during a protest, breaking several windows. Somu's actions damage government property. According to Section 324 of the law, Somu has caused mischief and can be imprisoned, fined, or both, based on how bad the damage was.

### **Section 341: Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 338.**

#### **341 (3) Punishment for Possess any seal, plate or other instrument knowing the same to be counterfeit**

If someone has a fake seal, plate, or any tool knowing it is fake, they can be punished with imprisonment up to three years, and they may also have to pay a fine.

### **341 (4) Punishment for Fraudulently or dishonestly uses as genuine any seal, plate or other instrument**

If someone uses a fake seal, plate, or any tool as if it were real, knowing or having reason to believe it is fake, they will be punished the same way as if they had made or faked the seal, plate, or tool.

#### **Example 1:**

A businessman named Arul finds a fake seal that looks like the real seal of the Income Tax Department. He has the idea to use this seal to make fake tax clearance papers for his clients so they can avoid paying taxes. Even though Arul knows the seal is fake, he still uses it. According to Section 341(4) of the Bharatiya Nyaya Sanhita 2023, Arul can be punished the same way he would have been if he had made or faked the seal himself. He could face life in imprisonment or a sentence of up to seven years, along with a fine.

#### **Example 2:**

A group of people in the area ask graphic artist Ramya to make a fake seal of a well-known jewelry brand. She knows that the seal will be used to make fake papers of authenticity for jewelry. Ramya says yes and makes the seal. Section 341(2) of the Bharatiya Nyaya Sanhita 2023 says that Ramya can be imprisoned for up to seven years and have to pay a fine.

### **Section 358: Repeal and savings.**

#### **Example 1:**

**Scenario:** A court had issued an arrest warrant under the IPC for an individual accused of murder in 2019. The individual is arrested in 2024, after the Bharatiya Nyaya Sanhita 2023 has come into effect.

Application of Section 358:

Repeal of IPC: The IPC is repealed by the Bharatiya Nyaya Sanhita 2023.

Previous Operation: The arrest warrant issued under the IPC remains valid.

Penalties and Punishments: If the individual is found guilty, the punishment will be according to the IPC.

Proceedings and Remedies: The legal proceedings will continue under the IPC provisions as if the IPC had not been repealed.

General Application: The General Clauses Act, 1897, ensures that the arrest warrant and subsequent legal actions are valid despite the repeal.

#### Example 2:

**Scenario:** Raj was charged under the Indian Penal Code (IPC) for rape in 2022. The case is still ongoing when the Bharatiya Nyaya Sanhita 2023 comes into effect.

Application of Section 358:

Repeal of IPC: The IPC is repealed by the Bharatiya Nyaya Sanhita 2023.

Previous Operation: Raj's case will continue under the provisions of the IPC as it was before the repeal. The repeal does not affect the ongoing case.

Penalty and Punishment: If Raj is found guilty, he will be punished according to the IPC, not the new Sanhita.

Investigation and Proceedings: Any investigation or legal proceedings related to Raj's case will proceed as if the IPC had not been repealed.

#### Example 3:

**Scenario:** Priya was awarded a compensation under a provision of the IPC for an injury she suffered due to an assault in 2021. The compensation process is still in progress when the Bharatiya Nyaya Sanhita 2023 is enacted.

Application of Section 358:

Repeal of IPC: The IPC is repealed by the Bharatiya Nyaya Sanhita 2023.

Rights and Privileges: Priya's right to compensation, which was acquired under the IPC, remains unaffected by the repeal.

Proceedings and Remedies: The process to award Priya her compensation will continue under the IPC provisions as if the IPC had not been repealed.

General Application: The general principles of the General Clauses Act, 1897, ensure that Priya's rights and the ongoing process are protected despite the repeal.

In *Vijay Sharma & Others Vs State of Rajasthan (2024)*, The Rajasthan High Court has clarified that for a crime committed before July 1, 2024—the date when three new criminal laws came into effect—if an FIR is filed on or after

July 1, the provisions/offences of the Indian Penal Code (IPC) will have to be invoked, and in such cases, the offences outlined in the Bharatiya Nyaya Sanhita (BNS) will not apply. The Court, however, clarified that for such FIRs lodged after July 1, 2024, for offences under the IPC (as crime committed before July 1), the applicable procedure should be as prescribed in the Bhartiya Nagrik Suraksha Sanhita (BNSS) and not the Code of Criminal Procedure (CrPC).

