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### **SPECIFIC PENAL SECTIONS FOR WOMEN**

In law man and women are treated equally. Some Penal Sections are common to both man & women. e.g. 503 IPC Criminal Intimidation, 420 IPC Cheating. However some specific offences are committed against women and these specific penal sections are as follows Section 498A. Husband or relative of husband of a woman subjecting her to cruelty Husband or relative of husband of a woman subjecting her 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 purpose of this section, “cruelty” means—

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

#### **CLASSIFICATION OF OFFENCE**

Punishment—Imprisonment for 3 years and fine-Cognizable if information relating to the commission of the offence is given to an officer in charge of a police station by the person aggrieved by the offence or by any person related to her by blood, marriage or adoption or if there is no such relative, by any public servant belonging to such class or category as may be notified by the State Government in this behalf—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

Comments

#### **166 A. 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.
- (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.
- (c) fails to record any information given to him under sub-section(1)of section 154 of the Code of Criminal Procedure/1973 (2 of 1974), in relation to cognizable offence punishable under section 326 A, section 326B,section 354,section 354B,section 370,section 370A,section 376,section 376 A, section 376B, section 376C,section 376D,section 376E or section 509,

shall be punished with rigorous imprisonment for term which shall not be less than six months but which may extend to two years, and shall also be liable to fine



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### **166B.Punishment for non-treatment of victim.-**

Whoever, being in charge 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 357C of the Code of Criminal Procedure, 1973(2 of 1974), shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

### **228A Disclosure of identity of the victim of certain offences, etc –**

(1) 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.

### **292.Evidence of officers of the Mint-**

(1) Any document purporting to be a report under the hand of any such gazette officer of the mint (officers of any mint or any note printing press or any security printing press including the officer of the controller of stamps and stationery) or of any Forensic Department or Division of Forensic Science Laboratory or any Government Examiner of Questioned Documents or any State Examiner of Questioned Documents, as the case may be, as the Central Government may, by notification, specify in this behalf, upon any matter or thing duly submitted to him for examination and report in the course of any proceeding under this Code, although such officer is not as a witness.

(2) The Court may, if it thinks, fit summon and examine any such officers as to the subject matter of this report: Provided that no such officers shall be summoned to produce any record on which the report is based .

(3) Without prejudice to the provisions of sections 123, 124 of the Indian Evidence Act, 1872 (1 of 1872) no such officers shall [except with the permission of the General Manager or any officer in charge of any Mint or any Note Printing Press or any Security Printing Press or any Forensic Department or any officer in charge of the Forensic Science Laboratory or any Government Examiner of Questioned Documents Organization or of the State Examiner of Questioned Documents Organization as the case may be] be permitted-

(a) to give any evidence derived from any unpublished official records on which the report is based.

(b) to disclose the nature or particulars of any test applied by him in the course of the examination of the matter or thing.

### **294. Obscene acts and songs.-**

Whoever, to the annoyance of others-

(a) does any obscene act in any public place

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

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

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### **304B Dowry death –**

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

Explanation.-For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(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.

### **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.

### **312-Causing miscarriage –**

Whoever voluntarily causes a woman with child to miscarry, shall if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.-A woman who causes herself to miscarry, is within the meaning of this section.

### **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; if act done without woman's consent. if act done without woman's consent.-- and if the act is done without the consent of the woman, shall be punished either with 2\*[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.

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### **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

1. Subs. by Act 8 of 1882, s. 7, for" and shall also be liable to fine".
2. Subs. by Act 26 of 1955, s. 117 and Sch., for" transportation for life".

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 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.

### **'326A .Voluntarily causing grievous hurt by use of acid.-**

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 rupees: 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.-**

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 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 1.-"Permanent, or partial damage" includes deformity, or maiming, or burning, or disfiguring, or disabling any part or parts of the body of a person.

Explanation 2- For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.'

### **354. Assault or criminal force to woman with intent to outrage her modesty.-**

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable fine.

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### **'354A. Sexual harassment and punishment for sexual harassment.**

(1) The following acts or behavior shall constitute the offence of sexual harassment-

(i) Physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) A demand or request for sexual favours; or

(iii) Making sexually coloured remarks; or (iv) forcibly showing pornography; or

(1) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

(2) Any person who commits the offence specified in clause

(i) or clause (ii) of sub-section (1) shall be punished with rigorous imprisonment which may extend to five years, or with fine, or with both.

(3) Any person who commits the offence specified in clause

(iii) or clause (iv) or clause (v) of sub-section (1) shall be punishable with imprisonment of either description that may extend to one year, or with fine, or with both.

### **354B. Assault or use criminal force to woman with intent to disrobe.-**

Whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked in any public place, 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.

### **354C.Voyeurism.-**

Whoever 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 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 seven years, and shall also be liable to fine ..

Explanation1. - For the purpose 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, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public.

Explanation2.- Where the victim consents to the capture of images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

### **354D-Stalking.-**

Whoever follows a person and contacts, or attempts to contact such person to foster personal interaction repeatedly, despite a clear indication of disinterest by such person, or whoever monitors the use by a person of the internet, email or any other form of electronic communication or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person, commits the offence of stalking: Provided that the course of conduct will not amount to stalking if the person who pursued it shows-

(i) that it was pursued for the purpose of preventing or detecting crime and the person accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the state; or

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(ii) That it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) that In the particular circumstances the pursuit of the course of conduct was reasonable.

(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.

### **363. Punishment for kidnapping.—**

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

### **366. Kidnapping, abducting or inducing 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; 3[ 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].

Whoever, by any means whatsoever, induces any minor girl under the age of eighteen 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.

### **366A Procreation of minor girl-**

Whoever, by any means whatsoever, induces any minor girl under the age of eighteen 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.

### **366B Importation of girl from foreign country –**

Whoever imports into 2\*[India] from any country outside India from the State of Jammu and Kashmir] 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 which may extend to ten years, and shall also be liable to fine.

### **370. Trafficking of person.-**

Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or a person by.-

First.- using threats, or

Secondly.- using force, or any other form of coercion, or

Thirdly.- by abduction, or

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Fourthly.- by practicing 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, harbored, transferred or received, commits the offence of trafficking.

Explanation 1.- The expression "exploitation" shall include, prostitution or other forms of sexual exploitation, forced labour or services, 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 seven years, but which may extend to ten 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 ten years but which may extend to imprisonment for life, 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 ten years but which may extend to imprisonment for life.

(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 fourteen years but which may extend to imprisonment for life.

(6) When a public servant including police officer 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.

(7) 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.

### **370A. Exploitation of a trafficking person-**

(1) Whoever, despite knowing, or having reason to believe that a child has been trafficked, employs such child in any form of labor, 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 with fine.

(2) Whoever, despite knowing or having reason to believe that an adult has been trafficked, employs such adult for labor, shall be punished with rigorous imprisonment 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. ' .

### **372-Selling minor for purposes of prostitution etc. –**

Whoever sells, lets to hire, or otherwise disposes of any 2\*[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.

[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.



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Explanation II.-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 recognized 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 minor for purposes of prostitution, etc. –**

Whoever buys, hires or otherwise obtains possession of any [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.

[Explanation I.-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 purpose of prostitution.

Explanation II.-"Illicit intercourse" has the same meaning as in section 372.]

### **Sexual offences**

#### **'375. A person is said to commit "sexual assault" if that person-**

- (a) Penetrates his penis, to any extent, into the vagina, mouth urethra or anus of another person or makes the person 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 another person or makes the person to do so with him or any other person;
- (c) Manipulates any part of the body of another person so as to cause penetration into the vagina, urethra, anus or any part of body of such person or makes the person to do so with him or any other person; or
- (d) applies his mouth to the penis, vagina, anus, urethra of another person or makes such person to do so with him or any other person;
- (e) touches the vagina, penis, anus or breast of the person or makes the person touch the vagina, penis, anus or breast of that person or any other person, except where such penetration or touching is carried out for proper hygienic or medical purposes under the circumstances falling under any of the following seven descriptions:-
  - First.- Against the other person's will.
  - Secondly. - Without the other person's consent.
  - Thirdly. - With the other person's consent when such consent has been obtained by putting such other person or any person whom such other person is interested, in fear of death or of hurt.
  - Fourthly. - When the person assaulted is a female, 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.
  - Fifthly.- With the consent of the other person when, at the time of giving such consent, by reason of unsoundness

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of mind or intoxication or the administration by that person personally or through another of any stupefying or unwholesome substance, the other person is unable to understand the nature and consequences of that action to which such other person gives consent.

Sixthly. - With or without the other person's consent, when such other person is under eighteen years of age.

Seventhly. - When the person is unable to communicate consent.

Explanation 1.- Penetration to any extent IS "penetration" for the purposes of this section.

Explanation 2.- For the purposes of this section, "vagina" shall also include labia majora.

Explanation 3.- Consent means an unequivocal voluntary agreement when the person by words, gestures or any form of non-verbal communication, communicates willingness to participate in the specific act:

Provided that, a person who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception-4 Sexual intercourse or sexual acts by a man with his own wife, the wife not being under sixteen years of age, is not sexual assault.

### **376- Punishment for rape –**

(1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which case, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both: Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

(2) Whoever –

(a) being a police officer commits rape –

(i) within the limits of the police station to which he is appointed; or

(ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or

(iii) on a woman in his custody or in the custody of a police officer subordinate to him; or

(b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or

(c) 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 takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or

(d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or

(e) commits rape on a woman knowing her to be pregnant; or

(f) commits rape on a woman when she is under twelve years of age; or

(g) commits gang rape, shall be punished with rigorous imprisonment for a term which shall not be less than ten



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years but which may be for life and shall also be liable to fine: Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

Explanation 1.-Where a women's is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.

Explanation 2.-"women's or children's institution" means an institution, whether called and orphanage or a home for neglected women or children or a widows' home or by any other name, which is established and maintained for the reception and care of women or children.

Explanation 3.-"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.

### **376A Intercourse by a man with his wife during separation –**

Whoever has sexual intercourse with his own wife, who is living separately from him under a decree of separation or under any custom or usage without her consent, shall be punished with imprisonment of either description for a term. Which may extend to two years and shall also be liable to fine.

### **376B 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 Intercourse by superintendent of jail, remand home, etc –**

Whoever, being the 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 takes advantage of his official position and induces or seduces any female inmate of such jail, remand home, place or institution 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.

Explanation 1.-"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 he can exercise any authority or control over its inmates Explanation 2.-The expression "women's or children's institution" shall have the same meaning as in Explanation 2 to sub-section (2) of section 376.

### **376D Intercourse by any member of the management or staff of a hospital with any woman in that hospital –**

Whoever, being on the management of a hospital or being on the staff of a hospital takes advantage of his position and has sexual intercourse with any woman in that hospital, 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.

Explanation.-The expression "hospital" shall have the same meaning as in Explanation 3 to sub-section (2) of section 376.]



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### **376E. Punishment for repeat offenders.**

Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376C 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 the remainder of that person's natural life or with death.¹.

### **377- Unnatural offences –**

Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 1\*[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 this section.

### **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.

### **493. Cohabitation caused by a man deceitfully inducing a belief of 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 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 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.—**



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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 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 five years, or with fine, or with both. In such case the wife shall not 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 two years, or with fine, or with both.

### **498a Husband or relatives of husband of a woman subjecting her 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.—(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman.

(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.

Classification of Offence

**Punishment**—imprisonment for 3 years and fine-cognizable if information relating to the commission of the offence is given to an officers in charge of a police station by the person aggrieved by the offence or by any person related to her by blood, marriage or adoption or if there is no such relative by any public servant belonging to such class or category as may be notified by the State Government in this behalf-Non-bail able-Trable by Magistrate of the first class-Non-Compoundable.

### **Section 498A.vis –a –Vis section 113 of Evidence Act.**

Section 498A of the Indian Penal Code or section 113A of the Indian Evidence Act has not introduced invidious classification qua the treatment of a married woman by her husband or relatives of her husband vis-a-vis the other offenders. On the other hand, such women form a class apart whom from those who are married more than seven years earlier to the commission of such offence, because, with the passage of time after marriage and birth of children, there are remote chances of treating a married woman with cruelty by her husband or his relatives. Thus, the classification is reasonable and has close nexus with the object sought to be achieved, i.e., eradication of



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the evil of dowry in the Indian social set-up and to ensure that the married women live with dignity at their matrimonial homes; *Krishan Lal v. Union of India*, 1994 Cr LJ 3472.

### **Unhappiness between husband and wife**

Where the prosecution relied only on incident of unhappiness of deceased with her husband and the allegation was only in form of suggestion, it does not establish criminal offence under either or both of the charges, hence conviction under section 498A is improper; *State v. K. Sridhar*, 2000 Cr LJ 328 (Kant).

### **Willful Conduct**

The allegations against the husband were that he abused and beat his wife, forced her to have a common kitchen with a harijan family, accused her of adultery and of carrying in her womb someone else's child, pressurizing her to agree for an abortion, and such other acts. This amounted to a willful conduct of cruelty towards wife; *Rishi Kumar v. State of Haryana*, Criminal Appeal No. 335-B of 1985.

### **Demand for Dowry and Ill-treatment**

(i) The wife petitioned for divorce on the ground of persistent demand made on her by her husband and in-laws. The High Court took the view that there was nothing wrong in these demands as money was needed by the husband for his personal use and in such a case wife should extend help. Reversing the judgment, the Supreme Court held that demand for dowry is prohibited under the law. That itself was bad enough; *Shobha Rani v. Madhukar*, AIR 1988 SC 121; see also *Prakash Kaur v. Harijinderpal Singh*, AIR 1999 Raj 46.

(ii) The husband and his parents were greedy people. Their desire for dowry was insatiable. They went on demanding dowry even after two years of marriage, and since the parents of wife could not meet these, they started ill-treating her with a view to coercing her parents to give dowry. The Delhi High Court held that this amounted to cruelty; *Adarsh Parkash v. Sarita*, AIR 1987 Del 203.

### **Demand for money**

Demand for money after four years of marriage for a specific purpose, no where related to marriage demand but causing of harassment to deceased wife so much so that she was bound to end her life is sufficient for conviction under section 498A; *State of Punjab v. Daljit Singh*, 1999 Cr LJ 2723 (P&H).

### **Drunkenness**

No doubt drinking is a constituent of culture all over the world, and is almost a cult in certain societies. Yet, even here as elsewhere a habit of excessive drinking is a vice and cannot be considered a reasonable wear and tear of married life. No reasonable person marries to bargain to endure habitual drunkenness, a disgusting conduct. And yet it is not an independent ground of any matrimonial relief in India. But it may constitute treatment with cruelty, if indulged in by a spouse and continued, in spite of remonstrance's, by the other. It may cause great anguish and distress to the wife who never suspected what she was bargaining for and may sooner or later find living together not only miserable but unbearable. If it was so, she may leave him and may, apart from cruelty, even complain of constructive desertion; *Rita v. Brij Kishore*, AIR 1984 Del 291.

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### Object

Section 498A was added with a view to punishing husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper technical view would be counterproductive and would act against interests of women and against the object for which the provision was added. There is every likelihood that no exercise of inherent power to quash the proceedings to meet the ends of justice would prevent woman from settling earlier. That is not the object of Chapter XXA; B.S. Joshi v. State of Haryana, AIR 2003 SC 1386.

### 509- Word, gesture or act intended to insult the modesty of a woman –

Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

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

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

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

(a), 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.

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(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.

### **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:- First.- 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.

### **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.

### **103. When the right of private defence of property extends to causing death.—**

The right of private defence of property extends, under the 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:- First.- 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 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.

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### **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 attempts 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.

### **Matter related to Public Servant.**

### **167. Public servant framing an incorrect document with intent to cause injury.—**

Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document 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 three years, or with fine, or with both.

### **171B. 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.

### **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.

### **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 persons lawfully employed, be

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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 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 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.

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 An order is promulgated by a public servant lawfully empowered to promulgated 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.

### **Matter related to general public**

#### **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 document to any public servant, as such, intentionally omits so to produce or deliver up the same, 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.

#### **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 to 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, 1898 (5 of 1898 ), 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.

#### **179. Refusing to answer public servant authorized 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 three months, or with fine which may extend to five hundred rupees, or with both.

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### **181. False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation.--**

Whoever, being legally bound by an oath 3[ or affirmation] to state the truth on any subject to any public servant or other person authorized by law to administer such oath 3[ 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 to 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.

### **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.

### **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 offence; if a capital offence.-- shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life; if punishable with imprisonment for life.-- and if the offence is punishable with 1[ 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; if punishable with less than ten years' imprisonment. if punishable with less than ten years' imprisonment.-- and if the offence is punishable with imprisonment for any term 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 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.

### **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

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description for a term which may extend to two years, or with fine, or with both. 1[ Explanation.- In sections 201 and 202 and in this section the word" offence" includes any act committed at any place out of 2[ India], which, if committed in 2[ India], 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 document 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 document 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 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 1[ 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. Harboring offender.--**

Whenever an offence has been committed, whoever harbors 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, if a capital offence; if a capital offence;-- shall, if the offence is punishable 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 punishable with imprisonment for life, or with imprisonment. if punishable with imprisonment for life, or with imprisonment.-- and if the offence is punishable with 1[ 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 which may extend to one year, and not 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.

**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, if a capital offence; if a capital offence;- shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life, or with imprisonment. if punishable



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with imprisonment for life, or with imprisonment.-- and if the offence is punishable with 3[ 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.

### **214. Offering gift or restoration of property in consideration of screening offender.--**

Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or 4[ restores or causes 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, if a capital offence; if a capital offence;- shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life, or with imprisonment. if punishable with imprisonment for life, or with imprisonment.- and if the offence is punishable with 3[ 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;