

KiIntroduction

The Constitution of India Confers the right to freedom of movement to every person throughout the territory of India and guarantees personal liberty under Article 19 and Article 21. Section 399 of Indian penal Code defines wrongful restraint. To safeguard individual's right to liberty against deprivation by an individual or groups other than State, the Indian Penal Code 1860 has made wrongful restraint wrongful confinement punishable under Section 339 to 348.

Meaning of Wrongful Restraint :

Restraint means an abridgment of the liberty of a person against his will. Wrongful restraint means obstructing a man from moving from one place to another place where he has right to be and wants to go. Wrongful restraint consists in preventing a man proceeding in some direction in which he wishes and has right to proceed.

Definition

Section 339 of Indian Penal Code defines wrongful restraint - whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person .

Exception -

The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section .

Illustration :

A obstructs a path along which Z has a right to pass. A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

Ingredients :

- 1) A person causes to obstruction to any person
- 2) Such obstruction is caused voluntarily
- 3) The obstruction must be such as to prevent that person from proceeding in any direction in which he has right to proceed.

If obstruction is made in good faith and the accused believes himself to have a lawful right to obstruct, no offence is committed, A person is justified in obstructing another from entering into a private way, over land or water, over which he has a legal right obstruct.

Punishment for Wrongful Restraint (Section 341)

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

Case law :

Sovarani Roy Vs. King AIR 1950 Cal 157

In this case Court held that if Person believes in good faith that he has right to prevent the complainant from passing over his ground, he cannot be convicted of the offence of wrongful restraint.

WRONGFUL CONFINEMENT

Introduction :

Wrongful confinement is defined under Section 340 of the Indian Penal Code. 1860. It is serious offence .Section 342 of the Indian Penal Code provides punishment for wrongful confinement.

Meaning : Wrongful Confinement -

Wrongful confinement means, a person is wrongfully restrained from proceeding beyond

certain circumscribing limits.

For example - Tying a person to a tree, Locking up a man in a room amount to wrongful confinement.

Definition : Wrongful confinement

Section 340 of the Indian Penal Code 1860 defines wrongful confinement as, "whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person."

Illustrations :

- (a) A causes Z to go within a walled space, and locks Z. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.
- (b) A places men with firearms at the outlets of a building, and tells Z that they will fire

at Z if Z attempts leave the building. A wrongfully confines Z.

Ingredients :

To invoke Section 340 of the Indian Penal Code following ingredients are to be satisfied :

(i) A person voluntarily restraint any person.

(ii) The act is done in such a manner as to prevent that person from proceeding beyond circumscribing limits

3) Punishment for wrongful confinement.

Section 342 of the Indian Penal Code says that, whoever wrongfully confines any person shall be punished with simple imprisonment of either description for a term which may extend to one

year, or with fine which may extend to one thousand rupees, or with both.

The offence under Section 340 of the Code is cognizable, bailable compoundable and triable by any magistrate.

4) Wrongful confinement for three or more days.

Section 343 of the Indian Penal Code says that, whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. The offence under this Section is cognizable, bailable, compoundable with with the permission of the court. and triable by any Magistrate.

5) Wrongful confinement for ten or more days.

Section 344 is a step further in the direction of prescribing sever punishment for wrongful confinement which may continue for ten days or more. Section 344 of the Code says that, "whoever

wrongfully confines any person for ten days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine."

The offence Under Section 344 of the code is Cognizable, bailable, Compoundable with the permission of the Court. and triable by any Magistrate.

6) Wrongful confinement of person for whose liberation writ has been issued (Section 345) :

Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this

Chapter.

Ingredients :

To invoke Section 345 of the Indian Penal Code, 1860 Following ingredients are to be satisfied

- (i) The accused kept the complaint in confinement
- (ii) Such keeping in confinement was wrongful.
- (iii) A writ habeas corpus had been duly issued
- (iv) The accused knew about the issue of the aforesaid **writ** and in spite of it kept the complaint in confinement wrongfully.

To apply this Section the prosecution must prove that the accused acted with the knowledge. The offence under this Section is Cognizable, Bailable, Non-compoundable and triable by a Magistrate of

first Class.

7) Wrongful confinement in secret :

Section 346 of The Indian Penal Code, 1860 says that, "whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as herein-before mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

Ingredients :

To invoke Section 346 of The Indian Penal Code following ingredients are to be satisfied -

- (i) The accused wrongfully confined a person
- (ii) To prevent him from proceeding beyond a limit imposed; and
- (iii) Such Confinement was Secret.

The offence under Section 346 of the Code is cognizable, bailable, compoundable with the permission of the court. and triable by any Magistrate.

8) Wrongful confinement to extort property, or constrain to illegal act.

According Section 347 of Indian Penal Code, whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security or of constraining the person confined or any person interested in such person to do anything illegal or to give any

information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Ingredients :

To invoke Section 347 of the Indian Penal Code following ingredients are to be satisfied -

(i) The accused confined a certain person

(ii) Such Confinement was wrongful

(iii) Such Confinement was for the purpose of -

a) extorting from the confinee, or

b) constraining the doing of an illegal act by the confinee, or

c) giving information facilitating the commission of any offence

The offence under Section 347 of the code is Cognizable, Bailable, Non-compoundable and

triable by any Magistrate.

9) Wrongful confinement to extort confession, or compel restoration of property :

Section 348 of the Indian Penal code says that, whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

The offence under Section 348 of the Indian Penal Code is Cognizable, Bailable, Non-compoundable and triable by any Magistrate. Punishment includes

imprisonment which may extend up to three years either rigorous or simple and shall also be liable to fine.

Vishwanatha Ayyar Vs. Emperor (1930)

In this case Court held that, temporarily detention of a person in the police station for the purpose of investigation by a police officer is not an offence of wrongful confinement.

Wrongful Restraint	Wrongful Confinement	
1	Meaning : <i>Wrongful restraint means</i>	Meaning : <i>In wrongful confinement, a</i>

	<i>obstructing a man from moving from one place to another where he has the right to be and wants to go.</i>	<i>person is wrongfully restrained from proceeding beyond certain circumscribing limits.</i>
2	<p>Definition:</p> <p><i>Section 339 of the Indian Penal Code defines wrongful restraint as, “Whoever voluntarily obstructs any</i></p>	<p>Definition :</p> <p><i>Section 340 of Indian Penal code defines Wrongful confinement as “Whoever wrongfully restrains any</i></p>

	<p><i>person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.”</i></p>	<p><i>person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said “wrongfully to confine” that person.”</i></p>
<p>3</p>	<p>Illustrations:</p> <p><i>1) A obstructs a path along which Z has a right to pass. A not believing in good faith that</i></p>	<p>Illustrations:</p> <p><i>1) A causes Z to go within a walled space, and locks Z. Z is thus prevented from proceeding</i></p>

	<p><i>he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.</i></p>	<p><i>in any direction beyond the circumscribing line of wall. A wrongfully confines Z.</i></p> <p><i>II) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts leave the building. A wrongfully confines Z.</i></p>
<p>4</p>	<p>Seriousness:</p>	<p>Seriousness:</p>

	<p><i>Wrongful restraint is not serious as wrongful confinement and hence lesser punishment is provided by the code.</i></p>	<p><i>Wrongful confinement is serious offence and hence more punishment provided by the code.</i></p>
<p>5</p>	<p>Punishment :</p> <p><i>Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to</i></p>	<p>Punishment :</p> <p><i>Whoever wrongfully confines any person shall be punished with simple imprisonment of either description for a</i></p>

one month, or with fine which may extend to five hundred rupees, or with both.

term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.