

OFFENCES RELATING TO MARRIAGE

RELEVANT PROVISIONS FROM INDIAN PENAL CODE, 1860

SECTIONS.-

10,27,46,304B,305,306,312,313,314,315,316,317,318,366,493,494,495,
496,497,498 and 498A.

S.10.- "Man", "Woman".- The word "man" denotes a male human being of any age, the word "woman" denotes a female human being of any age.

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

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

S.46.- "Death".- The word "death" denoted the death of a human being unless the contrary appears from the context.

[S. 304.B.- Dowry death.- (1) Where the death of a woman is cause 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 extent to imprisonment for life.]

S.305.- Abetment of suicide of child or insane person.- If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide, shall be punished with death or imprisonment for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

S.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.

S.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 be liable to fine.

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

S.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.

S.314.- Death caused by act done with intent to cause miscarriage.- Whoever, with intent to cause the miscarriage of 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.- and if the act is done without the consent of the woman, shall be punished either with imprisonment for life, or with the punishment above mentioned.

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

S.315.- Act done with intent to prevent child being born alive or to cause it to die after birth.- Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving 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.

S.316.- Causing death of quick unborn child by act amounting to culpable homicide.- Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with

imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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

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

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

S.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; 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.

S.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.

S.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 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.

State Amendment- [Andhra Pradesh].- Punishment-imprisonment for 7 years and fine-cognizable-Non Bailable-Triable by 1st class-Magistrate-Non-Compoundable.- [Vide A.P.Act 3 of 1992, (w.e.f.15-2-1992).]

S.495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.- Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the 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.

State Amendment- [Andhra Pradesh].- Punishment-imprisonment for 10 years and fine-cognizable-Non Bailable-Triable by 1st class-Magistrate-Non-Compoundable.- [Vide A.P.Act 3 of 1992, (w.e.f.15-2-1992).]

S.496. Marriage ceremony fraudulently gone through without lawful marriage.- Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

State Amendment- [Andhra Pradesh].- Punishment-imprisonment for 7 years and fine-cognizable-Non Bailable-Triable by 1st class-Magistrate-Non-Compoundable.- [Vide A.P.Act 3 of 1992, (w.e.f.15-2-1992).]

S.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, in 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.

State Amendment- [Andhra Pradesh].- Punishment-imprisonment for 5 years or fine, or both-Non cognizable-Non Bailable-Triable by 1st class-Magistrate-Non-Compoundable.- [Vide A.P.Act 3 of 1992, (w.e.f.15-2-1992).]

S. 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 reasons 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.

[CHAPTER XXA

OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

S.498-a. 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 purposes of this section, "cruelty" means,-

- (a) any wilful 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.]