

Wrongful restraint and wrongful confinement under BNS

(Bharatiya Nyaya Sanhita)

Introduction

Here we will be talking about the offence of wrongful restraint and wrongful confinement in light of Bharatiya Nyaya Sanhita, 2023 (BNS). These offenses are defined in Sections 126 and 127 of BNS, respectively.

Wrongful Restraint (Section 126 of BNS):

Definition:

According to Section 126(1) of BNS, Wrongful Restraint occurs when an individual voluntarily obstructs another person, preventing them from proceeding in any direction they have the right to go.

Exception:

The section provides an exception for the obstruction of a private way over land or water when done in good faith and believed to be lawful.

Punishment:

Under Section 126(2), the punishment for Wrongful Restraint includes simple imprisonment for up to one month, a fine extending to five thousand rupees, or both.

Example:

For instance, consider a situation where a person, without any lawful authority or good faith belief, physically blocks another person's path, preventing them from reaching their workplace. This act would be deemed Wrongful Restraint under BNS.

Wrongful Confinement (Section 127 of BNS):

Definition:

Wrongful Confinement under Section 127(1) involves restraining a person to prevent them from proceeding beyond certain circumscribing limits.

Example:

Suppose an individual forcibly confines another within a locked room, restricting their movement beyond the confines of that space. This act constitutes Wrongful Confinement as per BNS.

Punishment:

The punishment for Wrongful Confinement varies based on the duration and circumstances. The punishment for wrongful confinement is as follows:

1. Simple Wrongful Confinement (Subsection 127(2)):

- Imprisonment up to one year.
- Fine up to five thousand rupees.

2. Wrongful Confinement for Three Days or More (Subsection 127(3)):

- Imprisonment up to three years.
- Fine up to ten thousand rupees.

3. Wrongful Confinement for Ten Days or More (Subsection 127(4)):

- Imprisonment up to five years.
- Fine not less than ten thousand rupees.

4. Keeping a Person in Wrongful Confinement After Issuance of Writ (Subsection 127(5)):

- Imprisonment up to two years additionally.
- Fine.

5. Wrongful Confinement to Conceal Identity or Location (Subsection 127(6)):

- Imprisonment up to three years additionally.
- Fine.

6. Wrongful Confinement for Extortion (Subsections 127(7) and 127(8)):

- Imprisonment up to three years.
- Fine.

Case Laws on Wrongful Restraint:

1. Vijay Kumari Magee vs Smt. S.R. Rao (1996 Cri. L.J. 1371, S.C.):

- **Fact:** A lady teacher, after termination of her hostel room license, was denied entry, and the school authorities were accused of wrongful restraint.

- **Judgment:** The Supreme Court clarified that a necessary precondition for wrongful restraint is that the person concerned must have a right to proceed.

2. Re M. Abraham (AIR 1950 Mad. 233):

- **Fact:** The driver of a bus intentionally stopped it, obstructing another bus from proceeding further.

- **Judgment:** The bus driver was found guilty of wrongful restraint as soon as the person's progress was obstructed, even without the use of physical force.

Case Laws on Wrongful confinement:

1. State of Gujarat v Maganbhai Jogani (AIR 2009 S.C 2594):


- **Fact:** Officers making an inquiry were briefly restrained in the accused's house without the use of force.

- **Judgment:** The court held that the accused didn't commit the offence of wrongful confinement as there was no apprehension of force.

2. S.A. Aziz vs Pasam Haribabu (2003 6 Cri.L.j. 2462, A.P.):

- **Fact:** A police officer arrested a person wrongfully under a non-bailable warrant, detaining him for a week.

- **Judgment:** The police officer was found guilty of the offence of wrongful confinement. The High Court clarified that physical force isn't necessary for this offense.



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