



ESSENTIAL INGREDIENTS - BNS

OFFENCES AGAINST THE PUBLIC TRANQUILITY

S- 189 Unlawful assembly

‘Assembly’ means company of persons assembled together in a place for a **common purpose**.

- ❖ There is an assembly of **five or more persons**.
- ❖ They must have a **common object**; and
- ❖ The common object must be **one of the five specified** in the section which are as under

- 1) Intimidate (overawe) the Government or its officers by **criminal force**.
- 2) **Resist** the execution of law or legal process.
- 3) **Commit offences** like mischief, criminal trespass or any other offence.
- 4) Possess or dispossess any property by use of **criminal force**.
- 5) Use **criminal force** to compel a person to do an illegal act.

Note 1: An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

Note 2 : The membership of unlawful assembly is itself punishable. If five or more persons commit a crime with common object, then each person would be liable for the commission of offence.

S- 190 Every member of unlawful assembly guilty of offence committed in prosecution of **common object**.

- a) There must be an **unlawful assembly**, as defined in section 189.
- b) Criminal act must be **done by any member** of such assembly.
- c) Such act must be done **for the prosecution of the common object** of the assembly **or** members of that assembly (group) knew that the act was likely to be committed.

Note: Here the word "common" must be distinguished from "**similar**"; it means "common to all and known to the rest of them and also shared by them" Members must have **known the common object** and shared by all and each one of the members of such unlawful assembly.

Every person of the assembly will be liable for the commission of offence.

S- 191 Rioting

- ❖ There should be an **unlawful assembly** (Section 189 BNS).
- ❖ **Force or violence** is used by the member of unlawful assembly.
- ❖ Act must be done in prosecution of **common object**.

Rioting

Member of Unlawful assembly + Use of force Or Violence + For common object

| Cheating (Sec 318) | Criminal Misappropriation (Sec 314) |
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| <p>1 The accused induces the owner of the property to deliver it to any person or consent for retention of property dishonestly or to omit an act.</p> | <p>1 The owner of the property hands over the property innocently to the wrongdoer in good faith and the accused subsequently misappropriates (i.e convert to own use) it.</p> |
| <p>2 The deceitful and fraudulent act starts from the beginning and the offence complete is when the accused obtains the property.</p> <p>(Note: If deception develops after delivery or act or omission then it cannot be categorized as cheating)</p> | <p>2 In the beginning, the accused obtains the movable property from its owner with owner's consent. Thereafter, he misappropriates against the wish of the owner. When he misappropriates the property, then the offence is said to be completed.</p> |
| <p>3 The accused may cause harm or injury to the victim in body, mind, reputation or property.</p> | <p>3 The accused can misappropriate the immovable property only. He does not injure the complainant in body, mind, reputation, or immovable property.</p> |

| Criminal Breach of trust (Sec 316) | Cheating (Sec 318) |
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| <p>In Criminal breach of trust, the person receives property legally (through entrustment) and</p> | <p>It focuses on the act of inducing someone through dishonest means.</p> |

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| thereafter, retains it or converts it unlawfully. | |
| The property is obtained without deception of using fraudulent means. | The property is obtained by practicing deception or by fraudulent means. |
| The intent is not necessarily focused on deception but rather on the violation of the entrusted property. The dishonest intention of the offender comes later on. | It required fraudulent intent on the part of the offender They must have the intention to deceive and induce the victim to act upon their false representations. Dishonest intention is present at the time of taking of the property. |
| No inducement. | Fraudulent inducement is there. |
| Free consent of the owner. | Consent is not free, but consent is obtained by deception. |
| Existence of Fiduciary relationship between owner and offender. | No such relationship exists. |

| Criminal Misappropriation of property (Sec 314) | | Criminal Breach of Trust (Sec 316) | |
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| 1 | Property comes into the possession of the accused by some natural manner and later on he develops the intention to misappropriate | 1 | Property comes into the possession of the accused due to entrustment by the owner and then he dishonestly misappropriates the same. |
| 2 | There is no element of trust or contractual relationship. | 2 | There is element of trust and kind of contractual relationship between accused and the property. |
| 3 | It can be done only with respect | 3 | It can be done with respect to |

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| | to movable property. | | movable or immovable property. |
| Wrongful Confinement (Sec 127) | | Kidnapping (Sec 137) | |
| A person is confined in the premises from proceeding anywhere. | | Kidnapping refers to taking away a minor or person of unsound mind from its legal guardianship or taking away any person beyond the limits of India. | |
| All wrongful confinements are not kidnap. | | All kidnap are wrongful confinement. | |
| Offence is less serious. | | Offence is more serious. | |