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was likely to be



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BUSTER**

The section requires that there must be either administering to or causing to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug or other thing. The intention of the offender for so doing must be to cause hurt to such person or to commit or to facilitate the commission of an offence or there must be knowledge on his part that he will thereby cause hurt. Where the accused compounder in a hospital had a grudge against a senior doctor of the hospital and when requested by the doctor to bring aspirin he brought two packs one containing strychnine pills and the other aspirin and the doctor became sick immediately after consuming a strychnine pill, it was held that the compounder was guilty under section 328. Where the accused mixed milk bush juice in his toddy pots with the intention of finding out as to who had been stealing his toddy, and he knew that anyone who drank the juice was likely to be injured, he was held guilty under this section when some soldiers who had bought the toddy from some unknown vendor drank the same.

Where the accused administered dhatura to a woman and robbed her of her jewellery when she became unconscious as a result, it was held that this section was attracted. Where the accused wife not knowing the dangerous properties of aconite powder mixed the same in the food which she gave to the husband to eat and her intention was that after eating the same the husband's will power would be under her control and domination but the husband died of eating the same, it was held that she was guilty under this section. Where the accused gave gur mixed with zinc phosphide, a poison used for killing rats, to the deceased child with the intention of taking revenge of an earlier incident of theft in the house of that child and for which

the panchayat had fined her, she was held guilty under this section. Where the accused administered a compound sodium nitrate to the deceased who died, and the lethal dose of the substance was twenty to thirty grains whereas only one grain of the same was found in the viscera of the deceased, this section was held to be applicable. In *Madhukar Damu Patil v. State of Maharashtra* the 50 years old victim was given some stupefying druge through sugar cane juice before the ornament from her neck were removed. It was held that an offence under section 328 is made out and the prosecution need not prove that any poison was also administered to her.

The offence under this section is cognizable, non-bailable and non-compoundable, and is triable by court of session.