

"94. done by a
person who is
compelled



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“ 94. Act to which a person is compelled by threats.— Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence : Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to constraint. Explanation 1: A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law. Explanation 2: A person seized by a gang of dacoits, and forced by threat of instant death, to do a thing which is an offence by law; for example, “ a smith compelled to take his tools and to force open the door of a house for the dacoits to enter and plunder, it is entitled to the benefit of this exception.

” Object: To quote Stephen, Criminal Law is itself a system of compulsion on the widest scale. It is a collection of threats of injury to life, liberty and property if people do commit crimes. Surely it is at the moment when temptation to crime is strongest that the law should speak more clearly and emphatically to the contrary. It is, of course, a misfortune for a man that he should be placed between two fires, but it would be a much greater misfortune for society at large if criminals could confer impunity upon their agents by threatening them with death or violence if they refused to execute their commands. If impunity could be so secured a wide door would be

opened to collusion and encouragement would be given to associations of male factors, secret or otherwise.

Akin to a suspension of the Will is the suppression of the Will. Where the Will does not function as a free agent as where it acts under the compulsion of a threat, and evil intention cannot be ascribed to such Will. Lest such plea might be easily taken; law places several restrictions on such plea. It refuses to excuse murder, and offences against the State punishable with death committed under threat. Then again the threat must also be of a nature reasonably causing apprehension of instant death.

The law allows fear as a reason for acquittal in such offences only if there is a fear of instant death or instant grievous hurt apprehended to result in instant death. The plea is not available to a person who simply alleges to have carried out the orders of his superior officers. To get the benefit of this section apprehension of harm must be death and also the compulsion to which person is subjected must not be self-invited. Thus, if a person, of his own accord, or the reason of a threat of being beaten, joins a gang of dacoits, he cannot be excused. A blacksmith, seized by a gang of dacoits, is compelled to take his tools and break open a lock under fear of instant death to facilitate plunder is entitled to the benefit of this exception.

If A holds a pistol at B and threatens B with immediate death unless B breaks the bones of a third fellow, B shall not be deemed to have acted with a criminal intention of his own. His impulse of free Will has been suppressed under threat of imminent death. The term 'imminent' means immediately likely to happen, that is, it is a contingency so probable that it may mature or

materialise into a fact immediately the next moment as you refuse to act as desired as a calculated consequence of such refusal. The fear of death in other words must not relate to any time in the future; it must essentially be concerned with the living present. It is only when it is a part and parcel of the totality of things that constitute the living present that it can put the will of the man who is threatened out of action. Now suppose a man is threatened with a dagger at his throat to commit murder or to do or engage in acts which are offences against the State punishable with death. Shall the law excuse the man who is thus threatened with immediate death? The answer is “no” because the offences in question are of such a grave and serious character that the law shall take into account neither the degree of threat nor its imminence; it implies that the person threatened should sacrifice his own life rather than commit such grave and serious offences. The law may be stated in a tabular form as follows: — Except ... (i) Murder, and (ii) Offences against the State punishable with death.

Nothing is an offence which is done by a person compelled to do it by threats. (Nature of Threats) causing apprehension of instant death provided that the doer of the, act did not—(i) of his accord, or place himself in the (ii) from a reasonable situation by which he apprehension of became subject to such harm to himself constraint. (Section 94). Short of instant death, It will thus appear from the above that the law while making an exception in respect of the suppression of Will has treated suppression differently from suspension.

Where the Will is suspended, the offender is excused whatever be the wrong done by him. Two explanations to Section 94 are also to be noted. First

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explanation provides that a person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law. Second explanation lays down that a person seized by a gang of dacoits and forced by threat of instant death to do a thing which is an offence by law for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder is entitled to the benefit of this exception. Thus, Section 94 of the Code embodies the doctrine of compulsion and necessity as a justification for the commission of offences except murder and offences against the State punishable with death. Illustration: A master threatened to kill his servant (the accused) if he did not help him in removing a dead body.

Thus, the servant was compelled to help the master in the removal of the body. The Court held that Section 94 of the Code furnished a ground of defence to a prosecution for causing disappearance of evidence of the offence of murder under Section 201 of the Code.