

This to section 220,
code of criminal
procedure,



**ASSIGN
BUSTER**

This section is applicable where committing robbery or attempting to commit robbery is a voluntary act and hurt is also caused voluntarily. The provision is applicable to the main accused as well as to any other accused who is jointly concerned in committing or attempting to commit such robbery. The punishment provided is severe and there is no provision for simple imprisonment under this section.

Where A, and Ñ together went to the complainant, and A brandished a knife at him, and then all of them took him to the bushes nearby, and A and Ñ robbed him of his wrist watch and cash in B's presence, it was held that had a common intention with A and Ñ to rob the victim. According to illustration (m) to section 220, Code of Criminal Procedure, 1973, " A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 393 and 394 of the Indian Penal Code". This shows that separate convictions under the sections mentioned above are legal and valid even though hurt had been caused in committing robbery which seems to be one single transaction.

Where some stolen ornaments belonging to the deceased were discovered within the meaning of section 27, Evidence Act at the instance of the accused, conviction against him either under section 394 or under section 302 is not maintainable unless the charges under these sections are proved against him, and the proper course is to convict him under section 411 of the Code. In *Puttan v. State* the accused, along with two others, was charged under sections 394 and 397 of the Code.

The identification parade was held after six months of arrest. This delay was not explained. It was held that conviction could not be based on such

evidence of identification, and all the more so when the co-accused persons have already been acquitted on the same evidence.

In P. B. Aind v.

State of Maharashtra, it was held that when an accused has been convicted under Section 394 he should not be convicted under Section 392 because the offence under Section 392 is a minor offence in relation to the one under Section 394 of the Code. In Shraavan Dash rath Dalrange v. State of Maharashtra, the Bombay High Court held that liability under section 397 is only individual whereas liability under section 394 is both individual and vicarious. Thus, not only the accused who causes hurt but also an associate of his or her would be equally liable for the mischief contemplated under section 394 of the Code. In Pramjeet Singh v. State of Rajasthan the accused were charged with robbery of a car with attempt to cause grievous hurt.

The Rajasthan High Court observed that section 397 of the Code relates only to an offender who actually uses weapon himself and it has no scope for constructive liability. The court held that since no grievous hurt was caused and charges under sections 397/34 were not proved, conviction of accused under section 394 of the Code was proper as simple hurt was caused during commission of robbery. In Satthi Prasad v. State, the accused head constable took away a watch, gold ornaments and cash from a boatman after using force against him by slapping him, while the boatman had got hold of these properties from the body of a person who had drowned, and the accused made no entries of these articles in the records and dishonestly kept them

with himself. The Supreme Court held the accused guilty under sections 394 and 404 of the Code.

The offence under section 394 is cognizable, non-bailable and non-compoundable, and is triable by magistrate of the first class.