

The punishable under
this section even if



The section requires that trespass must have been committed at any of the places mentioned in the section itself, or indignity to human dead body must have been offered, or disturbance must have been caused to persons assembled for performing religious ceremonies. This must be done with the requisite 'mens rea' in the form of either intention or knowledge as specifically stated.

Entering a burial place and ploughing up the graves existing therein is punishable under this section even if the entry into the place was with the consent of the owner of the place. Where some co-owners of a plot of land used to bury their dead there, and two of them opened a saw-pit close to the graves of another co-owner's relatives, no offence under this section was committed. But doing one's duty of collecting money as per rules for erecting wall around a cemetery and withholding the burial proceedings till the fee was not paid, but later on allowing the grave to be dug without charging the fee as aforesaid, does not amount to an offence under this section. Having sexual intercourse within the premises of a mosque, or the tomb of a Mohammadan 'fakir' is punishable under this section.

A 'moharram' procession cannot be held to be a funeral ceremony within the meaning of this section. The word 'trespass' used in the section is not limited to 'criminal trespass' which has been defined by section 441 of the Code, but also includes any trespass which means entering into the property of another without authority, and if done with the requisite intention or knowledge as described in the section would be punishable under the section. A land owned by two bhumidhars had a family graveyard and a mango grove without a proper demarcating line between the two. The

accused who ploughed a part of the land could not be held guilty under this section because in the absence of a demarcating line between the burial place and the mango grove it could not be said that any part of that piece of land had been set apart for funeral rights or as a depository for the remains of the dead.

The offence under this section is cognizable, bailable and non-compoundable, and is triable by any magistrate.