

Using v. state of
rajasthan with daya



**ASSIGN
BUSTER**

Using force against his wife by the husband with the intention of compelling her to leave her parental home would make the husband guilty under this section, and if he removes her to another place and not his home so that her parents do not find her, this section is attracted. Where the appellant forcibly took away a young girl of seventeen years of age in a taxi and when she cried the appellant administered her a potion rendering her unconscious, and he took her to many places when ultimately the victim escaped and managed to reach a police station, it was held that the appellant was guilty under section 365 of the Code. In *Tarun Bora v. State of Assam*, the victim was taken in a car by the accused and after that he was immediately blindfolded and taken to a house and confined there for three nights. The motive behind his kidnapping was that he was being accused of giving information to the army about the United Liberation Front of Assam (ULFA). The Supreme Court held the accused guilty under section 365 of the Code. The Court also held that since section 3(5) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 came into force subsequent to the date of the incident in question, conviction under this provision was not liable to sustain. In *Suman Sood alias Kamal Jeet Kaur (wife) v.*

State of Rajasthan with Daya Singh Lahoria (husband) v. State of Rajasthan, known as Rajendra Mirdha abduction case, a demand by the accused for release of a member of their terrorist group was clearly communicated for which the victim was abducted. The accused were in possession of a house and owned a car in which the victim was abducted.

The Supreme Court held the conviction of the accused for offences under section 365, 364-A, 343/120-B and 346/120- B proper and observed that the wife of the main accused was very much aware of the fact that her husband and his companions abducted the victim. She was present throughout in the house where the victim was kept confined. She kept a watch on the victim and also gave him food and medicines.

She must be presumed to be aware of the abduction and in detaining him. Her conviction under sections 365/120-B, 343/120-B and 346/120-B was thus proper. Since there was no evidence on record to establish that she was a part of pressure tactics or had terrorised the victim or his family members to get demands made by her husband fulfilled, she was entitled to the benefit of doubt and the order of the trial court acquitting her for offences under sections 364-A and 120-B was not interfered with.

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