

Section the house
trespass or house-
breaking who



**ASSIGN
BUSTER**

Section 458 is similar to Sections 452 and 455. Section 458 only applies to the house trespass or house-breaking who actually has himself made preparation for causing hurt to any person etc., and not to his companions as well who themselves have not made such preparation. There should also be some evidence of lurking house- trespass as defined in Section 443, IPC.

The question whether the accused had made preparation to commit assault or wrongful restraint must depend upon circumstances. The points requiring proof of offence under Section 458 are: 1. The accused committed lurking house-trespass by night (Sec. 444) or house-breaking by night (Sec.

446). 2. He did so after having made preparation for – a) Causing hurt to any person, or b) Assaulting any person, or c) Wrongfully restraining any person, or d) Putting any person in fear of hurt, or e) Putting any person in fear of assault, or f) Putting any person in fear of wrongful restraint. The offence under Section 458 is cognizable and a warrant should, ordinarily, issue in the first instance. It is non-bailable as well as non-compoundable and is triable by a Magistrate of the first class.