

Illustrations: z, a has
used criminal force to



**ASSIGN
BUSTER**

Illustrations: a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other action on any person's part.

A has, therefore, intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z. b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion.

A has, therefore, used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z. c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has, therefore, used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence, A has used criminal force to Z. d) A intentionally pushes against Z in the street.

Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has, therefore, intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he

may thereby injure, frighten or annoy Z, he has used criminal force to Z, e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produces the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z, and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.

f) A intentionally pulls up a woman's veil. Here, A intentionally uses force to her, and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her. g) Z is bathing, A pours into the bath water which he knows to be boiling. Here A intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling. A has, therefore, intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force. h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z." According to Section 350 of the Code, force becomes criminal (i) when it is used without consent and in order to the committing of an offence; or (ii) when it is intentionally used to cause injury, fear or annoyance to another to whom the force is used.

The ingredients of Section 350 of the Code are: i) The intentional use of the force to any person; ii) Such force must have been used without the person's

consent; iii) The force must have been used: a) In order to the committing of an offence; or b) With the intention to cause, or knowing it to be likely that it will cause, injury, fear or annoyance to the person to whom it is used. The term 'battery' of English law is included in 'Criminal force'. 'Battery' is the actual and intentional application of any physical force of an adverse nature to the person of another without his consent, or even with his consent, if it is obtained by fraud, or the consent is unlawful, as in the case of a prize-fighting. The criminal force may be very slight as not amounting to an offence as per Section 95 of the Code. Its definition is very wide so as to include force of almost every description of which a person may become an ultimate object. Criminal force is the exercise of one's energy upon another human being and it may be exercised directly or indirectly. So if A raises his stick at and the latter moves away, A uses force within the meaning of Section 350. Similarly, if a person shouts, cries and calls a dog or any other animal and it moves in consequence, it would amount to the use of force.

In the use of criminal force no bodily injury or hurt need be caused. Where A spits over B, A would be liable for using criminal force against because spitting must have caused annoyance to B. Similarly if A removes the veil of a lady he would be guilty under Section 350 of the Code. The word 'intentional' excludes all involuntary, accidental or even negligent acts. An attendant at a bath, who from pure carelessness turns on the wrong tap and causes boiling water to fall on another, could not be convicted for the use of criminal force. The word 'consent' should be taken as defined in Section 90, IPC.

There is some difference between doing an act ‘ without one’s consent’ and ‘ against his will’. The latter involves active mental opposition to the act. According to Mayne, “ where it is an element of an offence that the act should have been done without the consent of the person affected by it, some evidence must be offered that the act was done to him against his will or without his consent”. The various illustrations under Section 350 exemplify the different ingredients of the definition of force given in Section 349. Of these illustrations, illustration (a) exemplifies motion in Section 349; illustration (b) ‘ change of motion’; illustration (c) ‘ cessation of motion; illustrations (d), (e), (f), (g) and (h) ‘ cause to any substance any such motion’. Clause (1) of Section 349 is illustrated by illustrations (c), (d), (e), (f) and (g); clause (2) of Section 349 is illustrated by illustration (a); and clause (3) of Section 349 is illustrated by illustrations (b) and (h).