

According force and
not merely show of



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According to Section 362 of the Indian Penal Code “ Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.” The ingredients of Section 362 are: i) Forcible compulsion or inducement by deceitful means; ii) The objects of such compulsion or inducement must be the going of a person from any place. Section 362 merely defines the term ‘ abduction’. Therefore, abduction per se is not offence under the IPC. It is an offence when it is accompanied by certain intent to commit another offence. Force or fraud is essential to make abduction punishable. Abduction, if falls in the categories provided under Ss.

364, 365, 366, 367 and 369, will amount to an offence. Thus, abduction is an offence only if it is done with intent to : i) Murder (S. 364); ii) Secretly and wrongfully confining a person (S. 365); iii) Induce woman to compel her marriage (S. 366); iv) Subject person to grievous hurt, slavery etc.

(S. 367); v) Steal from a person under 10 years (S. 369). By force: The term ‘ force’ as embodied in S. 362, IPC, means the use of actual force and not merely show of force or threat of force. Where an accused threatened the prosecutrix with a pistol to make her go with him, it would amount to abduction under this section. Deceitful means: ‘ Deceitful’ means misleading a person by making false representation and thereby persuading the person to leave any place. The expression ‘ deceitful means’ includes a misleading statement.

Deceitful means is used as an alternative to ‘ use of force’. It is, really speaking, a matter of intention. The intention of the accused is the basis and

gravamen of the charge. Inducement: In inducement there is some active suggestion on the part of the abductor which is the case of the person abducted to move to some place where he would not have gone but for this suggestion. The change of mind of the victim must have been caused by an external pressure of some kind. To go from any place: An essential element of abduction is compelling or inducing a person to go from any place. It need not be only from the custody of lawful guardian as in the case of kidnapping.

For unlike kidnapping, abduction is a continuing offence. The offence of kidnapping is complete, the moment a person is removed from India or from the keeping of lawful custody of guardian. But, in the case of abduction, a person is being abducted not only when he is first taken away from any place, but also when he is subsequently removed from one place to another place. The words 'from any place' indicate the meaning that abduction is a continuing offence. Continuous offence: Abduction is a continuing offence and a person is liable not only when a person is first moved from one place to another but all those who are involved in subsequently moving that person to other places are also liable. Abetment: If a married woman consents to her own abduction and the consent is a free consent, the offence of abduction is not constituted and the woman would not be liable to abet her own abduction. In *Bahdur Ali v.*

King Emperor [AIR 1923 Lah 158], a kidnapped girl who managed to escape from the Kidnappers met the accused, who misrepresented to her that he was a Police Constable. He told her that he would take her to the police station. But instead, he took her to his house, kept her there, demanded and took a ransom of Rs.

600 from her mother, before he handed her back. It was held that his act amounted to abduction. In *Rabinarayan Das v. State* [1992 Cr.

LJ 269 (Ori.)], the [blind] prosecutrix was to go to her school. But the petitioner took her to the secretariat premises. No evidence is forthcoming that she went there out of her own volition without any inducement by the petitioner. There is nothing to show that the prosecutrix had gone of her own volition. The place where she had been taken to was not her destination.

It has been observed that any act on the part of the person to lead a woman astray from the path of rectitude is seduction and if it is followed by intercourse, it will be seduction for illegal intercourse. In *Mahbub v. R* [(1907) 4 ALJR 482], an orphan girl aged about 17 years was brought up by her guardian as his own daughter. The neighbour induced her to leave home on the assurance that either he himself would marry her or get her married.

He debauched her himself and handed her over to one of his friends who proceeded to have illicit connection with her. The neighbour was held guilty of offence of abduction. It was held that the expression 'deceitful means' is wide enough to include the inducing of a girl to leave her guardian's house by means of a representation that the person to whom she went would either marry her himself or arrange for her marriage.