

In deceased got
dressed and went
with



**ASSIGN
BUSTER**

In other words, in the offence of abduction there must be on the part of the offender either an element of compulsion by force or an element of inducement by deceitful means.

The word 'force' has the same meaning as given under section 349 of the Code. To induce means to lead into; there must be an active suggestion on the part of the abductor making the victim to agree to move to a place where he would not go but for this suggestion. A change of mind of the victim takes place in cases of inducement. The expression 'deceitful means' suggests that the means employed by the offender must be such as to practise deception on the victim. The expression has a wide import and includes a misleading statement. Mere abduction has not been made punishable under any section of the Code.

In other words, abduction by itself is not an offence. It is punishable only when it is coupled with one or the other intent as stated in certain subsequent sections. In cases of abduction committed by compulsion by force actual force must be used and a mere threat of use of force is not enough. Where the accused persons persuaded the deceased to go with them in their jeep with a view to settle a dispute between the deceased and another person, and the deceased got dressed and went with them, it was held that the accused persons could not be held guilty of committing abduction as neither was the deceased compelled by force, nor was he induced by deceitful means, to go with them. Where the accused persons went on to the roof where a woman was sleeping, woke her up and asked her to accompany them which she refused, and then they physically lifted her by force to compel her to go with them on which the woman raised an

alarm after which they dropped her to make good their escape, it was held that they were guilty of attempt to abduct her under section 366 read with section 511 of the Code. Where a minor orphan girl, brought up as his own daughter by a man, was induced by the accused, a neighbour, to come with him so that he could either marry her himself or get her married to another man, and on this pretext he debauched her and also handed her over to his friend who also established sexual contact with her, it was held that the accused had committed abduction since the expression 'deceitful means' is wide enough to include inducing a girl to leave her guardian's home on a false representation that she would be married either to the accused himself or to someone else. Where a grown up woman is carried away by force against her will even with the object of restoring her to her husband, the act amounts to abduction as the woman has been compelled by force to go from a place.

Where the accused induced a minor girl to go with him by threatening her by a pistol, the act amounted to abduction and not kidnapping from lawful guardianship as the element of compulsion by force was present. Where a married woman consented to her own abduction, she could not be held guilty of abetment of her own abduction because commission of the substantive offence of abduction was impossible. Ordinarily there is no question of abduction when a husband takes his wife with him, but if deceit is played upon her or force is applied it would be a different matter. Kidnapping from lawful guardianship and abduction Kidnapping from lawful guardianship can be committed only against a minor, under sixteen years of age if male and under eighteen years of age if female, or a person of unsound mind, whereas

abduction can be committed against any person. In kidnapping from lawful guardianship taking or enticement is necessary, whereas in abduction there must be compulsion by force or inducement by deceitful means. In kidnapping from lawful guardianship the taking or enticement must be without the consent of the lawful guardian of the victim, but in abduction the same is not necessary.

In kidnapping from lawful guardianship the taking or enticement must be out of the keeping of the lawful guardian of the victim, but in abduction there is no such condition. In kidnapping from lawful guardianship consent of the victim is immaterial whereas in abduction if the consent of the victim is free and voluntary no offence of abduction is committed. Kidnapping from lawful guardianship is not a continuing offence, but abduction is. Kidnapping from lawful guardianship by itself is an offence without proof of any mental element on the part of the offender and it has been made punishable under section 363, but abduction by itself is not an offence and it has been made punishable under subsequent sections only when the act is accompanied with certain mental element.