

Section courts from
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whether there



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Section 368 does not apply to the perpetrator of the offence of kidnapping or abduction but to his accomplice who knowingly conceals the kidnapped or abducted person. The knowledge can be inferred by the courts from the various circumstances.

Whether there has been wrongful concealment or confinement under Section 368, is a matter to be considered from the facts and the circumstances of a particular case. The offence under Section 368 is cognizable, non-bailable, non-compoundable and triable by the Court by which the kidnapping or abduction is triable. In *Pyare Lal v. State of UP* [AIR 1987 SC 852], where the complicity of the accused in selling the wife of the co-accused was established and the buyer raped and killed her, a conviction under Section 368 was upheld by the Supreme Court.

In *Smt. Saroj Kumari v. State of UP* [MR 1973 SC 201], the accused had been charged of the offence of stealing a new born child from its mother's delivery bed in the maternity hospital, as the child was found in the bedroom of the accused, although, she had not given birth to any new born child. The Supreme Court upheld her conviction under Section 368, holding that under the circumstances, the inferences of concealment and guilt concurrently drawn by the courts below were justifiable and correct.