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servant or in the



**ASSIGN
BUSTER**

The offender under this section must be a public servant. He must take an advantage of his official position and induce or seduce a woman to have sexual intercourse with him. Such woman must either be in his custody as such public servant or in the custody of a public servant subordinate to him. Such sexual intercourse must not amount to rape. In *Im Prakash Verma v. State of Madhya Pradesh*, it was alleged that a teacher of a government school committed rape on a student.

The Supreme Court held that though a teacher in a government school is a public servant but a student cannot be said to be in his custody. If a student and a teacher fall in love, the teacher cannot be said to have taken undue advantage of his position, more so when the offence is committed outside of school. Thus, conviction of the teacher under this section is not proper. In *State of Maharashtra v.*

Gajanan, in a case of rape documentary evidence such as school leaving certificate and school register were produced to prove age of the victim was fourteen years at the time of commission of rape. The head master of the school also deposed and produced records before the trial court. The Supreme Court opined that the High Court in absence of evidence to the contrary came to the abrupt conclusion without any basis that normally guardians understate the age of their children at the time of admission to school. No question was put to the victim in cross-examination about her date of birth.