

RMM LAW COLLEGE SAHARSA

Indian Penal Code

Ist Part

Paper -

TOPIC- Punishment

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100. When the right of private defence of the body extends to causing death:

The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely :-

First. - Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly. - Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly. - An assault with the intention of committing rape;

Fourthly. - An assault with the intention of gratifying unnatural lust;

Fifthly. - An assault with the intention of kidnapping or abducting;

Sixthly. - An assault with the intention of wrongfully confining a person, under

circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

101. When such right extends to causing any harm other than death:

If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in Section 99, to the voluntary causing to the assailant of any harm other than death.

102. Commencement and continuance of the right of private defence of the body:

The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

103. When the right of private defence of property extends to causing death:

The right of private defence of property extends, under the restrictions mentioned in Section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :-

First. - Robbery;

Secondly. - House-breaking by night;

Thirdly. - Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

Fourthly. - Theft, mischief or house-trespass, under such circumstances as may reasonable cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

STATE AMENDMENTS :

"Karnataka". - (1) In Clause Thirdly, -

(i) after the words "mischief by fire", the words "or any explosive substance" shall be inserted;

(ii) after the words "as a human dwelling, or" insert the words "as a place of worship, or".

(2) After Clause Fourthly, the following clause shall be inserted, namely :

"Fifthly. - Mischief by fire or any explosive substance committed on any property used or intended to be used for the purpose of Government or any local authority statutory body or company owned or controlled by Government or railway or any vehicle used or adapted to be used for the carriage of passengers for hire or reward". [Vide Karnataka Act No. 8 of 1972, Section 2 w.e.f. 7.10.1972].

"Maharashtra" - In Section 103, add the following at the end, namely :

"Fifthly. - Mischief by fire or any explosive substance committed on any property used or intended to be used for the purposes of any government or any local authority, statutory body, company owned or controlled by Government, railway or tramway, or on any vehicle used or adapted to be used, for the carriage of passengers for hire or reward". [Vide Maharashtra Act No. 19 of 1971, Section 26 w.e.f. 31.12.1971].

"Uttar Pradesh" - In Section 103, after clause Fourthly, add the following clause, namely :

"Fifthly. - Mischief by fire or any explosive substance committed on -

(a) Any property used or intended to be used for the purpose of Government, or any local authority or other corporation owned or controlled by Government; or

(b) any railway as defined in clause (4) of Section 3 of the Indian Railway Act, 1890 or railways stores as defined in the Railways Stores (Unlawful Possession) Act, 1955; or

(c) any transport vehicle as defined in clause (33) of Section 2 of the Motor Vehicles Act, 1939". [Vide U.P. Act No. 29 of 1970, Section 2 w.e.f. 17.7.1970]