

Criminal Law II- Mid Term Exam

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Wrongful Restraint and Wrongful Confinement

Introduction

Section 339 till 348 of Pakistan Penal Code (PPC) tells us regarding the offences related to wrongful restraint and wrongful confinement. Section 339 defines wrongful restraint while section 340 of PPC defines wrongful confinement.

Wrongful Restraint

Restraint means an abridgment of the freedom of a person against his will. Wrongful restraint means obstructing a person from moving from one particular place to another where he wants to go and has a right to be. In other words we can say that Wrongful restraint means preventing a person proceeding in some direction in which he desires and has right to proceed. So the main point of this section is connected to the freedom of a person i.e. a slightest unlawful obstruction to the freedom of a person where he has the right to go cannot be defended and is punishable under this section.

Section 339 of PPC declares:

Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception. — The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

So according to the above definition, the word obstruct indicates obstruction through physical or threatening means, when an obstruction is illegal it becomes wrongful restraint.

Illustration of Wrongful Restraint

In order to understand the concept of wrongful restraint, the following illustrations have been given:

- *'A' builds a wall across a path along which 'Y' has a right to pass. 'Y' is thus prevented from passing. 'A' commits the offence of wrongful restraint.*
- *Ali has a right to walk on a particular path but is threatened by Imran to proceed. If Ali proceeds, then Ali will leave his wild dogs on Imran. So it is clear that Ali has wrongfully restrained Imran's path.*

Essential Elements of Wrongful Restraint

➤ **Obstruction:**

An important and major element of wrongful restraint is obstruction i.e. hindrance. The victim's path has to be obstructed so as to physically stop him from moving around or moving where he wants to. To constitute wrongful restraint a physical obstacle should be caused which means that an oral prohibition does not fall into this category.

➤ **Voluntary Obstruction:**

It means any kind of obstruction which is done voluntarily with the knowledge that it will keep the person out of the place where he wishes to and has right to be. It can be a physical obstacle which can be a physical force or threat, when such force or threat is unlawful it becomes

wrongful restraint. The voluntary obstruction of a car, with an intention to stop or restrain the travelling person in it would amount to wrongful restraint.

➤ **Any person:**

The obstruction has to be of a person. Restraint of a vehicle alone cannot be considered as wrongful restraint.

Illustration:

When the car was stopped from proceeding further on a public road but the persons in it were free to go anywhere they wished to; it is not a case of wrongful restraint.

Thus the essence of this offence is causing obstruction to a person i.e. human being.

➤ **Person has a right to move in that direction:**

All the people have equal rights in public streets to move in any direction that they want to. Any restraint to such right would be considered unlawful. However, there is an exception to this rule as:

○ **Bona fide claim:**

If an act is done in good faith under the belief that it is defensible by law, a conviction under this section will not stand.

Illustration:

Ali passes over Imran's land, Imran stops him. This case will not fall under wrongful restraint.

Section 341: Punishment for Wrongful Restraint:

This section tells us about the punishment of wrongful restraint that if someone wrongfully restrains any other person will be liable to get punished with simple imprisonment for a period which may extend to one month, or punished with a fine which may extend to five hundred rupees, or with both the above punishments.

Wrongful Confinement

According to Merriam Webster dictionary;

“Wrongful confinement means to illegally limit or constrain a person into boundaries or walls”.

Section 340 of PPC declares:

Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said “wrongfully to confine” that person.

In clear and easy words we can say that wrongful confinement means restricting a person to go beyond a specific circumscribing limit. Wrongful confinement is like a form of wrongful restraint which is about keeping the person out within the limits where he wishes to go. The main point or aim of this section is to prevent a person’s liberty which is trespassed by the voluntarily act done by someone else.

Illustration of Wrongful Confinement

In order to understand the concept of wrongful confinement, the following illustrations have been given:

- *'A' causes 'M' to go within a walled space and locks 'M' in. 'M' is thus prevented from proceeding in any direction beyond the circumscribing line of wall. 'A' wrongfully confines 'M'.*
- *Ali places his men with weapons around a building and threatens Imran that these armed men will shoot him if he tries to escape/leave the building. So Ali wrongfully confined Imran.*

Essential Elements of Wrongful Confinement

➤ Wrongful restraint of a person:

Basically 'Wrongful confinement' is a type of wrongful restraint. In wrongful restraint there is a limited suspension of a person's liberty whereas in wrongful confinement there is total suspension of a person's liberty beyond certain prescribed limits. To constitute wrongful confinement it is vital that the person must be completely restrained from all directions. Partial restraint does not amount to wrongful confinement.

Illustration:

Ali places men with lethal weapons outside the building where Imran is kept and is told that he would be killed if he leaves the building. Imran is totally and wrongfully confined.

➤ **Prevents the person from proceeding:**

This section declares that such limitations must prevent the person from proceeding beyond the certain circumscribing boundaries. Wrongful confinement won't be possible if a desire to proceed never existed, nor can a confinement be wrongful if it was consented to by the person suffered. Simple insistence verbally or mere sitting around a person won't satisfy the necessities of the offence of wrongful confinement.

➤ **Proof or evidence:**

For the offence of wrongful confinement proof of actual physical restriction is not essential. It is enough if the evidence shows that an impression is produced in the mind of the victim in order to create a reasonable apprehension in his mind. Also we can say that detention through the exercise of moral force without the addition of physical force is enough to constitute the offence.

Section 342 Punishment for Wrongful Confinement

This section declares that if someone wrongfully Confines any other person, he will be punished with imprisonment for a term which can extend to one year, or with fine which may extend to one thousand rupees or with both the mentioned punishments.

Types of Wrongful Confinement

The punishment of an unlawful act is decided according to the period of confinement. The sections which define various types of wrongful confinement according to the time period and motive of the offender are mentioned below:

➤ **Section 343 of PPC** tells us that if someone wrongfully confines another person for a time period of three or more days, will be punished with imprisonment of description for a time period which can extend to two years, or with fine or both.

➤ **Section 344 of PPC** tells us if someone wrongfully confines another person for a time period of ten or more days, will be punished with imprisonment for a time period which can extend to three years, and will also be liable to fine.

➤ **Section 345 of PPC** declares that if someone wrongfully confines another person, knowing that a writ for the freedom of that person has been issued, will be punished with imprisonment for a period which can extend to two years in addition to any time period of imprisonment which he may be liable under any section of this chapter.

➤ **Section 346 of PPC** tells us that if someone wrongfully confines another person and prevent others including public servant from knowing about the confinement or we can says that its kept as a secret, then that person will be punished with imprisonment for a time which may extend to two years in addition to another punishment which can be liable for such wrongful confinement.

➤ **Section 347 of PPC** tells about the wrongful confinement by someone with an intention to extort any valuable security like money or property from another person, or someone who is interested in that confined person which leads to some unlawful act, will be punished with imprisonment extending to three years and also will be liable to pay fine.

➤ **Section 348 of PPC** tells about wrongful confinement for the purpose of extorting any form of information or confession leading to the misbehavior or for the purpose of coercing the confined person in order to cause the restoration of any valuable security or property or in order

to satisfy any demand, shall be punished with imprisonment for a time which may extend to three years and will also be liable to fine.