AILET

Understanding Kidnapping and Abduction under IPC

Aparna Shukla · 29 Aug 2021

Kidnapping and Abduction under IPC are the terms that are often used interchangeably but the difference between them must be understood. In a legal sense, Kidnapping and Abduction cannot be used interchangeably. Section 359 to 374 of IPC deals with these offences. This article explains the difference between these two offences.

Kidnapping

Section 359 of the Indian Penal Code lays down that the Kidnapping is classified into two categories i.e. Kidnapping from India and Kidnapping from lawful Guardian.

Kidnapping from India

Section 360 explains the concept of Kidnapping from India. If anyone takes a person out of the limits of India without his/her consent or without the consent of the person entitled to give consent, then the offence of kidnapping from India is committed.

Illustration: Afisha takes Ashu from India to SriLanka without the consent. This is a case of Kidnapping from India.

Kidnapping From Lawful Guardianship

Section 361 of IPC deals with Kidnapping from Lawful Guardianship. When any person takes away or entices any minor or a person of unsound mind, away from the keeping of their lawful guardianship without their consent, this is a case of Kidnapping from Lawful Guardianship. For the purpose of this section, any boy below the age of 16 years and any girl below the age of 18 years is minor.

Illustration: Arun is a boy who is 11 years old and under the legal guardianship of his father. Anil, the neighbour takes Arun to the waterpark on the outskirts of the city without the consent of Arun’s father. This is a case of Kidnapping from lawful Guardianship.

There are two exceptions to Section 361 and they are as follows:

1. He is the father of an illegitimate child.
2. He is entitled to the lawful custody of the child.

Punishment for Kidnapping

Section 363 of the IPC deals with the punishment for the offence of Kidnapping. The punishment prescribed in this section is Simple imprisonment or Rigorous imprisonment extendable up to 7 years and Fine.

Abduction

When a person compels a person or induces a person to move from one place using deceitful means or force, it is a case of Abduction. Section 362 of the Indian Penal Code deals with the offence of Abduction. It is not mandatory that physical force has to be actually used, even the threat of using force is enough.

Illustration: If Anita puts a gun on Alisha's head and asks him to go to her house with her. She threatens Alisha that if she didn't go with him, he will shoot her. She goes to her house because of the threat. This is a simple case of Abduction.

Aggravated Forms of Abduction or Kidnapping

1. Kidnapping or maiming a minor for begging. – Section 363 A
2. Kidnapping or Abducting to Murder. – Section 364
3. Kidnapping for Ransom. – Section 364A
4. Abducting or Kidnapping with intent to secret and wrongful confinement. – Section 365
5. Kidnapping or Abduction a woman to compel her for marriage, etc. – Section 366
6. Procuration of Minor Girl – Section 366A
7. Kidnapping or Abducting to subject a person to Grievous Hurt – Section 367
8. Kidnapping or Abducting for Wrongfully Concealing or Keeping in Confinement – Section 368
9. Abducting or Kidnapping a child under ten years with the intent to steal any movable property from him or her. – Section 369
10. Abducting or Kidnapping for the purpose of Slavery and Trafficking – Section 370

11. Kidnapping for sale and purchase of minor for immoral purposes. – Section 372
12. Abduction or Kidnapping for Forced Labour. – Section 374

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