



IPC SECTION 324: BAILABLE AND COMPOUNDABLE

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Abstract: There has been a confusion with respect to the nature of offence punishable under Section 324 of Indian Penal Code, 1860 (the “IPC”). The question is whether the offence under Section 324 of IPC is a bailable offence or a non-bailable offence, a compoundable offence or a non-compoundable offence. This piece of paper shall analyse relevant statutory provision, statutory amendment, Gazette Notification and jurisprudential developments in order to understand how we can deal with the issue.

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Key Words: Section 324 of IPC, bailable, compoundable, Court

Introduction

There has been a confusion with respect to the nature of offence punishable under Section 324 of Indian Penal Code, 1860 (the “IPC”). The question is whether the offence under Section 324 of IPC is a bailable offence or a non-bailable offence, a compoundable offence or a non-compoundable offence. This piece of paper shall analyse relevant statutory provision, statutory amendment, Gazette Notification and jurisprudential developments in order to understand how we can deal with the issue.

Section 324 of Indian Penal Code, 1860

Section 324 of IPC as originally enacted has imprisonment or fine or both for voluntarily causing hurt by dangerous weapons or means. The provision is reproduced hereunder:

“Section 324 of IPC: Voluntarily causing hurt by dangerous weapons or means.

Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stab-bing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

In order to establish whether it is a bailable offence or not, it is important to look into the First Schedule of the Code of Criminal Procedure, 1973 in which classification of the offences have been made. Section 324 of IPC is shown to have been made *bailable offence*. Further, Section 320 (2) of the Code of Criminal Procedure, 1973 enlists Section 324 of IPC in the Table of compoundable offences.

Code of Criminal Procedure (Amendment) Act, 2005

If we go through Section 42 (f) (iii) of the Code of Criminal Procedure (Amendment) Act, 2005 (Act no. 25 of 2005) which substituted the word “*non-bailable*” for the word “*bailable*” in section 324 of IPC, i.e. the offence became *non-bailable*. Further, by virtue of Section 28 (a) of the aforesaid amendment (Act no. 25 of 2005), Section 320 of Cr.PC was also amended and Section 324 of IPC was omitted from the list of compoundable offences mentioned in the Table under Section 320 (2) of Cr.PC. Thus, Section 324 of IPC was made non-bailable and non-compoundable by way of the aforesaid amendment (Act no. 25 of 2005). It is pertinent to note that people ignore the Gazette of India Notification dated 21st June, 2006 by which some provisions of the aforesaid amendment (Act no. 25 of 2005) were made enforceable w.e.f. 23.06.2006, however, the amendment made in Section 324 of IPC was not made enforceable. Hence, Section 324 of IPC was kept *bailable* and *compoundable* as it originally was. Due to the ignorance of this Gazette Notification, in some of the places, the accused persons arrested for offence under Section 324 of IPC are not given bail as a matter of right immediately, despite it is still bailable

offence. Further, sometimes, the parties are not allowed to compromise the offence under Section 324 of IPC, despite the fact that the offence is still compoundable.

Conclusion

After analysing the facts and the Code of Criminal Procedure (Amendment) Act, 2005 (Act no. 25 of 2005) followed by the Gazette of India Notification dated 21st June, 2006, the things became crystal clear that the offence punishable under Section 324 of IPC is *bailable* and *compoundable*.

References

1. Indian Penal Code, 1860
2. Code of Criminal Procedure, 1973
3. Code of Criminal Procedure (Amendment) Act, 2005
4. Gazette of India Notification dated 21st June, 2006

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