

SYNOPSIS

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4. Punishments:

The punishments to which offenders are liable under the provisions of this Sanhita are--

- (a) Death;
- (b) Imprisonment for life;
- (c) Imprisonment, which is of two descriptions, namely:--
 - (1) Rigorous, that is, with hard labour;
 - (2) Simple;
- (d) Forfeiture of property;
- (e) Fine;
- (f) Community Service.

5. Commutation of sentence:

The appropriate Government may, without the consent of the offender, commute any punishment under this Sanhita to any other punishment in accordance with section 474 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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Explanation.--For the purposes of this section the expression "appropriate Government" means,--

(a) in cases where the sentence is a sentence of death or is for an offence against any law relating to a matter to which the executive power of the Union extends, the Central Government; and

(b) in cases where the sentence (whether of death or not) is for an offence against any law relating to a matter to which the executive power of the State extends, the Government of the State within which the offender is sentenced.

#### **6. Fractions of terms of punishment:**

In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years unless otherwise provided.

#### **7. Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple:**

In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

#### **8. Amount of fine, liability in default of payment of fine, etc:**

(1) Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

(2) In every case of an offence--

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(a) punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment;

(b) punishable with imprisonment or fine, or with fine only, in which the offender is sentenced to a fine,

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, in which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

(3) The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

(4) The imprisonment which the Court imposes in default of payment of a fine or in default of community service may be of any description to which the offender might have been sentenced for the offence.

(5) If the offence is punishable with fine or community service, the imprisonment which the Court imposes in default of payment of the fine or in default of community service shall be simple, and the term for which the Court directs the offender to be imprisoned, in default of payment of fine or in default of community service, shall not exceed,--

(a) two months when the amount of the fine does not exceed five thousand rupees;

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(b) four months when the amount of the fine does not exceed ten thousand rupees; and

(c) one year in any other case.

(6) (a) The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law;

(b) If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

#### Illustration

A is sentenced to a fine of one thousand rupees and to four months' imprisonment in default of payment. Here, if seven hundred and fifty rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seven hundred and fifty rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If five hundred rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If five hundred rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

(7) The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to

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imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

**9. Limit of punishment of offence made up of several offences:**

(1) Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

(2) Where--

(a) anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished; or

(b) several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence, the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.

**Illustrations**

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But, if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act

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whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

10. Punishment of person guilty of one of several offences, judgment stating that it is doubtful of which:

In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

11. Solitary confinement:

Whenever any person is convicted of an offence for which under this Sanhita the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, namely:--

- (a) a time not exceeding one month if the term of imprisonment shall not exceed six months;
- (b) a time not exceeding two months if the term of imprisonment shall exceed six months and shall not exceed one year;
- (c) a time not exceeding three months if the term of imprisonment shall exceed one year.

12. Limit of solitary confinement:

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In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

13. Enhanced punishment for certain offences after previous conviction:

Whoever, having been convicted by a Court in India, of an offence punishable under Chapter X or Chapter XVII of this Sanhita with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to imprisonment for life, or to imprisonment of either description for a term which may extend to ten years.