

Burden / Onus

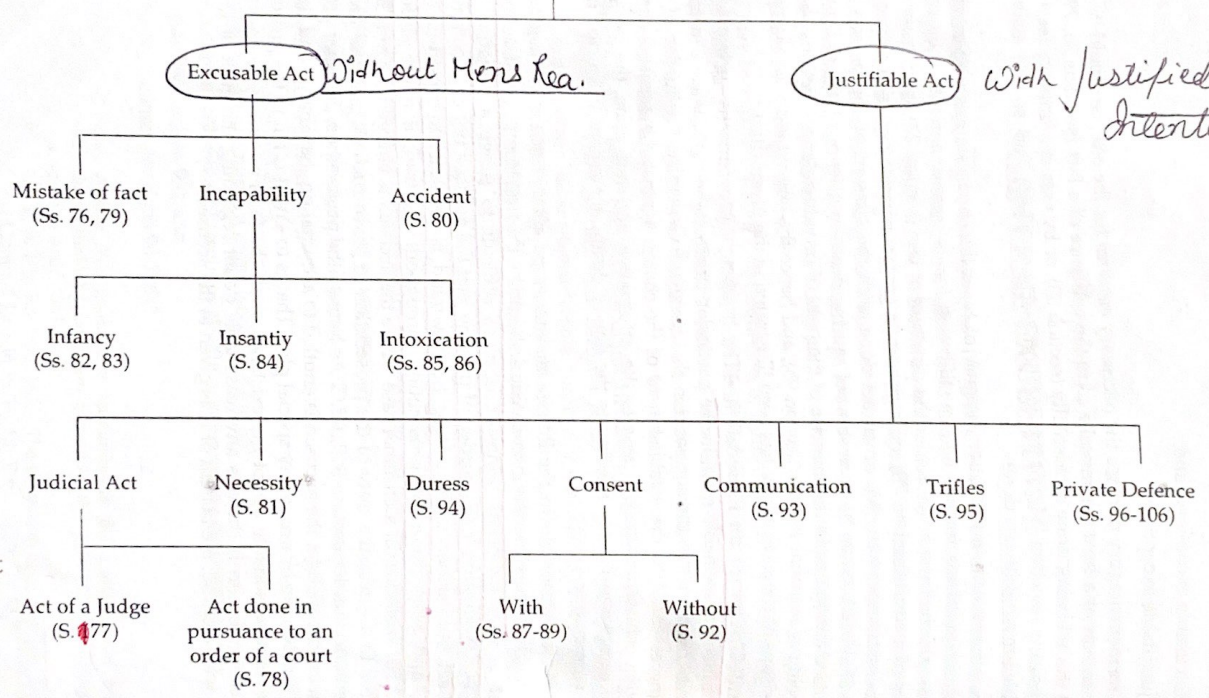
is  
on Accused  
s/s-105  
IEA

## GENERAL EXCEPTIONS

Sec-76 to 106 of the Code lay down Seven exceptions

- 1- Mistake of Fact (Sec-76 & 79)
- 2- Judicial acts, namely -
  - an act of a Judge (Sec-77)
  - an act pursuant to an order of a Judge (Sec-78)
- 3- Accident Sec-80
- 4- Absence of Criminal Intention
  - (a) Necessity Sec-81
  - (b) Act of child Sec-82 & 83
  - (c) Act of Insane Sec-84
  - (d) Act of Intoxicated person Sec-85, 86
  - (e) Bonafide act for other benefit 92
  - (f) Communication in good faith Sec-93
  - (g) Act under compulsion or threat Sec-94 Duress
- 5- Act with Consent Sec-87-91
- 6- Trespassing act - Sec-95
- 7- Right of private Defence - Body - Sec-96-102, 104 & 106  
Property Sec-96-99, 101, 103-105

CHART DEPICTING THE SCHEME OF THE CHAPTER RELATING TO GENERAL EXCEPTIONS  
(I.P.C. SECTIONS 76 TO 106)



# MISTAKE OF FACT Sec-76 & 79

Mistake is a slip made, not by design but by mischance.

Ignorantia facti excusat, ignorantia legis neminem excusat is a maxim in criminal law.

This means 'ignorance of fact is an excuse, ignorance of law is no excuse.'

When a person does any act by misunderstanding of some fact negating an element of crime, there arises mistake of fact.

Keso Sahu 4 Ors vs Saligram Shah

The Court held that accused showed that he brought the cart and cartman to the Police Station in good faith and belief that the offence of smuggling rice was being carried on in the plaintiff's house. The said suspicion was proved to be wrong.

The defence of mistake of fact is available to the accused as he did the act in good faith and believing it to be justified by law.

Dathi Singh vs The state

The accused fired on an innocent person misidentifying him to be a thief, while he believed that he is bound to detain the thief.

According to the officer's finding, he was not in the position to apprehend them, fired at him. Here the defence of mistake of fact cannot be availed by him as the act done by him was not justified.

R. vs Biron (1875) Unlawfully taking of girl

R. vs Tolson (1889) Bigamy

### plea of Superior Orders

In case of soldiers, the IPC does not recognise the duty of blind obedience for orders of superiors as sufficient to protect him from the penal consequences of his act.

## Mistake of Law

Mistake of law means mistake as to the existence or otherwise of any law on a particular subject as well as mistake as to what law is.

The maxim 'ignorantia juris non excusat' has received wide acceptance. ~~not only in~~ Sec-76 of IPC is an incorporation of that law in our law.

"Every man is presumed to know the law."

## Ignorance of law by foreigners

This maxim 'ignorantia juris non excusat', in its application to criminal offence, admits no exception.

M H George v/s State of Maharashtra (1965)

Ignorance of a newly passed statute cannot be pleaded in defence in our country because for an Indian law to operate within territory of India it is not necessary that it should either be published or be made known outside the country.