

CLAT 2019



Law of Crimes

Session 8 : Kidnapping & Abduction

8.1

Kidnapping – Child Stealing

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Kidnapping from India

- Whoever conveys any person beyond the limits of India without the consent of that person, or of some person legally authorized to consent on behalf of the person, is said to have kidnapped that person from India.

8.1 Kidnapping – Child Stealing

Kidnapping from lawful guardianship

- Whoever takes or entices any minor under **sixteen** years of age, if a male, or under **eighteen** years of age, if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to have kidnapped such minor or person from lawful guardianship.
- The phrase "lawful guardian" in this section includes any person lawfully entrusted with the care of custody of such minor or other person.

Ex-1

Principle : Whoever takes away with him any minor person less than sixteen years of age if a male, or less than eighteen years of age if a female out of the keeping of parents of such minor person without the consent of such parent, is said to have kidnapped such minor person.

Facts : A female born on January 01, 1995 got admitted to an undergraduate program of a reputed University on July 01, 2012. She became friendly with one of the boys, born on June 01, 1994, of her class. The boy and the girl decided to marry. The parents of the boy agreed but the family of the girl did not agree. On December 15, 2012 the girl made a call from her Blackberry to the boy. The girl told the boy to come in his car at a particular place and time. The boy reached the stipulated place before the stipulated time. He waited there for about half an hour. The girl reached the stipulated place. She opened the door of the car and sat beside the boy who was on the driving seat. Without exchanging any pleasantries, the boy drove the car to an unknown place. The father of the girl lodged an FIR in the nearest police station on January 20, 2013.

- (a) The boy has committed the offence of kidnapping
- (b) The boy has not committed the offence of kidnapping
- (c) The boy has not committed the offence of kidnapping for there is a delay in filing the FIR
- (d) The boy has not committed the offence of kidnapping because the girl was his classmate

Ex-1 Answer: (A)

➤ ***Explanation:***

In this case there are three conditions to be kept in mind. The person commits this offence if he:

- i) Takes away any minor
- ii) Out of keeping of parents
- iii) Without the parents' consent

Although the girl went with the boy with her free consent, her consent is not relevant as per the Principle given here. Hence, option (a) is the best possible answer as he took away a minor out of the keeping of the parents without the parent's consent.

8.2

Abduction

- Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.
- Object is going from one place to another offence
- It is continuing offense

8.2

Difference between Kidnapping and Abduction

S. No.	Kidnapping	Abduction
1	Kidnapping is itself an offence	Abduction is not itself an offence. It is offence when committed to help other crimes
2	It is not a continuing offence	It is a continuing offence
3	There are two types of Kidnapping: <ul style="list-style-type: none"> • Kidnapping from India • Kidnapping from Lawful guardianship 	Abduction has no different types
4	It can be committed in respect of minors in case of lawful guardianship (minor or unsound mind)	It has no such division. It can be committed against any person.
5	The offence of Kidnapping is done without consent	In abduction there is no express presence of the element of consent. If there is express free consent, there is no abduction.
6	The element of force is not expressly present in the offence of kidnapping	Abduction is Committed by force or deceitful means

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