

## **Unraveling Legal Protections: A Comprehensive Analysis of General Defenses in Mistake under Sections 76 and 79**

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### **Abstract**

This study performs a comprehensive analysis of the legal regulations pertaining to mistake defences as outlined in Sections 76 and 79 of the Indian Penal Code (IPC). An in-depth comprehension of the legal framework around mistake is crucial for legal practitioners and researchers, since it poses complex issues and has significant ramifications in criminal law.

This paper examines the extent, relevance, and constraints of mistake defences under the Indian legal framework by analyzing Sections 76 and 79 of the IPC. This text examines the several types of errors that are acknowledged in legal contexts, such as errors related to facts and errors related to the interpretation of the law. It also evaluates how these errors might potentially affect the responsibility for criminal acts.

The analysis examines the prerequisites for a mistake to be considered a legitimate defence under the IPC, taking into account criteria such as the reasonableness of the error and its pertinence to the accused criminal behaviour. This paper examines how courts have interpreted and applied these rules in various factual contexts by reviewing relevant case law and legal precedents.

### **Introduction**

Chapter IV of the Indian Penal Code pertains to the exemptions from criminal responsibility. These exclusions pertain to various actions that, while occurring within the specified circumstances outlined in Sections 76 to 106, are not classified as offences.<sup>1</sup>

The defence of error, as defined under the Indian Penal Code (IPC) Sections 76 and 79, is an essential technique in criminal law that can reduce punishment for improper actions. Mistakes as a defence are based on the idea that a person's responsibility can be diminished or abolished if they really and reasonably believed their actions were

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<sup>1</sup> K D Gaur, 2023, Textbook on the Indian Penal Code, LexisNexis, Vol I

legal or justifiable. The Indian Penal Code (IPC), Sections 76 and 79 establish separate frameworks for the defence of error, each dealing with different situations and levels of responsibility.

### **A. The difference between Bound by Law and Justified by Law**

There is a subtle differentiation between individuals who commit an offence while perceiving themselves as obligated by law or acting within the boundaries of the law. "Bound by law" refers to a situation when a person mistakenly feels that they were legally obligated to act in that specific manner despite committing an offence. To provide clarity, a servant inadvertently kills his master during the night, mistaking him for a burglar who had entered the premises. According to the law, the servant was legally obligated to safeguard his master's residence from theft.<sup>2</sup>

Conversely, "justified by law" refers to a situation where the law authorizes a person's actions. This signifies that the individual had sufficient legal arguments and proof to support their actions. For example, I witnessed B actively delivering powerful strikes to C. An apprehended B to give him to the authorities. However, it was subsequently discovered that B was acting in self-preservation. Given that A acted in good faith, believing his actions were justified by law, he will be exempt from liability.<sup>3</sup>

As to Section 76 of the Act, if an accused individual believes they are legally obligated to perform that action, they can use this as a defence. Section 79 of the Act states that if an accused individual genuinely believes their actions are authorized by law, they may use this as a defence.

Section 76 of the Indian Penal Code (IPC) addresses situations where a person mistakenly conducts an act, believing it to be legal and justified based on that assumption. This provision states that an individual will not face criminal responsibility for their actions if those actions would not have been considered illegal based on their genuine beliefs about the facts.<sup>4</sup> This section essentially acknowledges the concept of subjective guilt, emphasizing the individual's mental state during the

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<sup>2</sup> Supra, Pg. No. 16, Note no. 10

<sup>3</sup> ibid

<sup>4</sup> ibid

commission of the offence. The condition necessitates that the error be both reasonable and genuine, indicating that the individual sincerely believed their conduct to be legal, relying on the facts as they viewed them. Furthermore, the error must pertain to a substantial fact essential to the violation rather than a peripheral or insignificant matter.

For instance, A soldier, obeying the commands of a higher-ranking commander and adhering to legal regulations, shoots at a crowd. In this instance, the soldier has not engaged in any wrongdoing. Suppose an individual, while defending themselves, has a reasonable belief of their immediate danger of significant injury and employs force to safeguard themselves. In that case, they can plead the defence of a mistake under Section 76 if it is later discovered that there was no genuine threat. Under such circumstances, if a person really and reasonably believes that self-defence is necessary, their criminal responsibility for any resulting harm would be negated.

However, Section 79 of the Indian Penal Code (IPC) offers legal protection for actions carried out in the exercise of the right to self-defence. According to this statement, any action taken to defend oneself or someone else from harm is not considered a crime as long as it is done in good faith and based on a reasonable belief that risk is possible. This provision encapsulates the concept of self-preservation, acknowledging the innate entitlement of persons to safeguard themselves and others from immediate danger.<sup>5</sup>

To effectively utilise the defence of error outlined in Section 79, the individual must establish that their activities were carried out in good faith. This entails demonstrating a fundamental belief that their actions were necessary for self-defence or protecting others. Moreover, the perception of danger must be rational given the circumstances, including criteria such as the type and seriousness of the perceived threat, the presence of other possible actions, and the appropriateness of the response.

**Good Faith** - The term 'good faith' is defined under the Indian Penal Code (IPC) section 52 as an action performed with 'enough caution and attention'. To avail oneself of the defence of mistake of fact under this Article, the accused bears the burden of proving that their belief in the legality of their actions was sincere and

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<sup>5</sup> Indian Penal Code, 1860, § 79, No. 10, Acts of Parliament, 1860 (India).

based on careful consideration. The lack of genuine intention is sufficient to reject the gain he is seeking.

For example, suppose an individual who believes they are being attacked uses physical force to fend off the attacker. In that case, they can invoke the defence of error under Section 79 if it is later revealed that the believed threat was not real. If an individual acts in good faith and reasonably believes they are in danger, their actions would be considered justified, and they would not be held legally responsible for using force.

Practically, the defence of mistake protects against unfair results in criminal cases, acknowledging that people may make mistakes or misunderstand, particularly in stressful, fearful, or confusing situations. Nevertheless, the courts scrutinise the defence's applicability, evaluating the reasonableness and sincerity of the mistake about the circumstances surrounding the offence. Although errors can sometimes excuse someone from criminal responsibility, this does not provide complete protection and must be proven with reliable evidence and adherence to legal norms.

Sections 76 and 79 of the IPC offer crucial legal protections for individuals accused of criminal acts undertaken due to a genuine misunderstanding or erroneous belief. These rules acknowledge the personal responsibility of the accused, permitting the reduction or removal of legal responsibility if the mistake is sincere and rational. By embracing principles of good faith and reasonableness, the defence of errors upholds justice and fairness in the criminal justice system. It ensures that persons are not unfairly punished for acts performed under genuine error or misapprehension.<sup>6</sup>

#### Case Laws –

State of Orissa v. Ram Bahadur Thapa - This case establishes an essential precedent for determining the genuineness of a plea of general defence based on a Mistake of Fact. The court cited two prominent cases, Waryam Singh versus Emperor and Bonda Kui vs Emperor, as the primary authorities on the issue of criminal culpability. In these instances, the court protected the defendant under the Indian Penal Code, section 79. The defendant was charged with murder, but it was determined that they had

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<sup>6</sup> supra Pg. No. 16, Note no. 10

wrongly believed their victim to be a ghost. In these cases, the court explicitly said that the absence of Mens Rea or an intention to commit wrongdoing means that no offence has been committed. The inference of responsible homicide may only be made against a living human person.<sup>7</sup>

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<sup>7</sup> Lawrato <https://lawrato.com/indian-kanoon/ipc> (3may2025)