

**The Indian Penal Code 1860**

**Section 362 - ABDUCTION Whoever by force compels, or by any deceitful means induces any person to go from any place, is said to**

i) Kidnapping is committed only in respect of a minor under sixteen years of age if a male and under eighteen years if a female or a person of unsound mind; while abduction is in respect of a person of any age. (ii) The person kidnapped is removed out of lawful guardianship. A child without a guardian cannot be kidnapped. Abduction has reference exclusively to the person abducted. (iii) In kidnapping the minor is simply taken away. The means used may be innocent. In abduction, force, compulsion, or deceitful means are used. (iv) Consent of the person taken or enticed is immaterial in kidnapping; while in abduction, the consent of the person moved, if freely and voluntarily given, condones abduction. (v) The intention of the offender, in kidnapping, is a wholly irrelevant consideration while in abduction it is the most important factor. (vi) Kidnapping from guardianship is a substantive offence under the Code, but abduction is an auxiliary act, not punishable by itself, but made criminal only when it is done with one or other of the intents specified in s. 364 of this Code. Where the deceased was persuaded by the accused to go with them in their jeep with a view to settling a dispute which the deceased had with another person and the deceased thereupon left with them after getting properly dressed, it was held that it could not be abduction as there was neither force nor deceit which compelled the deceased to go with the accused persons--Vinod Chaturvedi, 1984 Cri.LJ 814 (SC). Enticing away by natural guardian or father, it does not constitute abduction.--Sudesh Thakur v. KCJ 1996 (38) DRJ 22: 1996 JCC 541