# IPC Section 173

## Section 173 of the Indian Penal Code: Making or fabricating false evidence in other stages of judicial proceeding  
  
Section 173 of the Indian Penal Code (IPC) deals with the grave offence of fabricating false evidence in judicial proceedings \*other than\* during a trial. This section complements Sections 191-199, which address perjury and other forms of false evidence given during a trial. Section 173 recognizes the importance of truth and integrity throughout all stages of judicial proceedings, not just the trial itself. This essay provides a comprehensive analysis of Section 173, examining its ingredients, judicial interpretations, related provisions, and significance in maintaining the sanctity of the justice system.  
  
\*\*I. The Text of Section 173:\*\*  
  
Section 173 of the IPC states:  
  
“Whoever makes any false document or electronic record or part of such document or electronic record, with intent to cause it to be produced or used as genuine evidence in a judicial proceeding, or knowing that it is likely to be produced or used as genuine evidence in a judicial proceeding, or offers, or causes or attempts to cause, any such document or electronic record or part thereof to be produced or used as genuine, knowing that such document or electronic record or part thereof is forged or fabricated, shall be punished in the same manner as if he gave false evidence.”  
  
\*\*II. Ingredients of the Offence:\*\*  
  
To establish an offence under Section 173, the prosecution must prove the following essential ingredients:  
  
1. \*\*Making a false document or electronic record or part thereof:\*\* The accused must have created or fabricated a false document or electronic record, or a portion of such a document or record. This act of fabrication is the core of the offence.  
  
2. \*\*Intent or knowledge of likely use as evidence:\*\* The accused must have either intended that the false document or electronic record be produced or used as genuine evidence in a judicial proceeding, or they must have known that it was likely to be so produced or used. This element establishes the \*mens rea\* (criminal intent) of the offence, demonstrating that the fabrication was not accidental or unintentional but done with the purpose of influencing a judicial proceeding.  
  
3. \*\*Judicial proceeding:\*\* The false document or electronic record must be intended or likely to be used in a judicial proceeding. This includes any proceeding before a court of law or other legally constituted tribunal or authority empowered to adjudicate disputes or make legally binding decisions. Crucially, Section 173 applies to stages \*other than\* the trial itself, filling the gap left by provisions dealing with perjury during trial. This encompasses preliminary inquiries, investigations, pre-trial hearings, and other stages where evidence is gathered and presented.  
  
4. \*\*Offering, causing, or attempting to cause production or use as genuine:\*\* The accused must have offered, caused, or attempted to cause the false document or electronic record to be produced or used as genuine evidence. This element connects the fabrication to the actual or attempted use of the false evidence in the judicial proceeding. It is not necessary that the document is actually used; an attempt to introduce it is sufficient.  
  
5. \*\*Knowledge of forgery or fabrication:\*\* If the accused offers, causes, or attempts to cause the production or use of the document, they must also know that it is forged or fabricated. This knowledge emphasizes the deliberate and dishonest nature of the act.  
  
  
\*\*III. "False Document" and "Electronic Record":\*\*  
  
The terms "document" and "electronic record" are defined broadly in the IPC and the Information Technology Act, respectively. A "document" can be any material bearing writing, marks, figures, or symbols that can be used to record information. An "electronic record" is data, records, or data generated, image stored, received or sent in an electronic form. The inclusion of "electronic record" reflects the growing importance of digital evidence in modern legal proceedings.  
  
  
\*\*IV. "Judicial Proceeding":\*\*  
  
As mentioned earlier, "judicial proceeding" encompasses various stages before a court or tribunal, including preliminary inquiries, investigations, and pre-trial hearings. It is essential to distinguish this from the actual trial, where provisions related to perjury apply.  
  
  
\*\*V. "Intent" and "Knowledge":\*\*  
  
The \*mens rea\* of the offence can be established by proving either the \*intention\* to use the false document as evidence or the \*knowledge\* that it is likely to be so used. The prosecution can rely on circumstantial evidence to infer the accused's intent or knowledge, such as the contents of the document, the circumstances of its creation, and the accused's conduct.  
  
  
\*\*VI. Punishment:\*\*  
  
Section 173 prescribes the same punishment as for giving false evidence (Section 193). This can range from imprisonment up to seven years and a fine, depending on the nature of the case. The severity of the punishment reflects the seriousness of fabricating evidence and its potential to undermine the justice system.  
  
  
  
\*\*VII. Related Provisions:\*\*  
  
Several other sections of the IPC are related to Section 173:  
  
\* \*\*Sections 191-199 (Offences relating to false evidence):\*\* These sections deal with various forms of giving false evidence during a trial, including perjury. Section 173 complements these provisions by addressing the fabrication of evidence in other stages of judicial proceedings.  
  
\* \*\*Section 463 (Forgery):\*\* If the false document or electronic record is created with the intention of causing damage or injury to any person, the offence of forgery under Section 463 may also be applicable.  
  
\* \*\*Section 471 (Using as genuine a forged document or electronic record):\*\* This section covers the use of a forged document or electronic record as genuine, even if the accused did not create it themselves.  
  
  
\*\*VIII. Evidentiary Aspects:\*\*  
  
The prosecution must prove each ingredient of the offence beyond a reasonable doubt. This may include:  
  
\* \*\*Expert evidence:\*\* To establish that the document or electronic record is indeed false or fabricated.  
\* \*\*Witness testimony:\*\* Testimony from individuals who can attest to the accused's involvement in creating or using the false document.  
\* \*\*Documentary evidence:\*\* The false document or electronic record itself, along with any related materials.  
\* \*\*Circumstantial evidence:\*\* Evidence of the accused's conduct and the surrounding circumstances that indicate their intent or knowledge.  
  
  
  
  
\*\*IX. Judicial Interpretations:\*\*  
  
Numerous judicial pronouncements have shaped the understanding and application of Section 173. Courts have emphasized the necessity of proving the intent or knowledge of likely use as evidence and the connection between the fabrication and a judicial proceeding. The context and specific circumstances of each case are crucial in determining whether the ingredients of the offence are met.  
  
  
\*\*X. Significance of Section 173:\*\*  
  
Section 173 plays a vital role in upholding the integrity and fairness of the judicial process. By criminalizing the fabrication of false evidence in all stages of judicial proceedings, it protects the truth-seeking function of the courts and prevents the miscarriage of justice. The section deters individuals from attempting to manipulate or influence legal outcomes through fraudulent means. This reinforces public trust in the justice system and ensures that legal decisions are based on genuine and reliable evidence.  
  
  
In conclusion, Section 173 of the IPC is a critical safeguard against the insidious practice of fabricating false evidence. By addressing the creation and potential use of such evidence in all stages of judicial proceedings, the section complements provisions relating to perjury and strengthens the overall framework for ensuring the integrity of the justice system. Judicial interpretations have further clarified the scope and application of Section 173, reinforcing its effectiveness in upholding the principles of truth and fairness in legal proceedings.