

1. *S Palani Velayutham v District Collector Tirunvelveli TN*, (2010) 1 SCC (Cr) 401 : (2009) 10 SCC 664 [LNIND 2009 SC 1659] : (2009) 12 SCR 1215 [LNIND 2009 SC 1659] .
223. Subs. by Act 26 of 1955, section 117 and Sch., for "transportation for life" (w.e.f. 1-1-1956).
224. *Jitendra v State of UP*, 2000 Cr LJ 3087 (All), the accused was falsely implicated and convicted for offences under IPC. The court directed the authorities to register case against the prosecutrix and take necessary action; *AN Gupta v State of Rajasthan*, 1999 Cr LJ 4932 (Raj), FIR lodged containing false and baseless allegations, intending *prima facie* to injure the reputation of the complainant. Falsity was proved by the statements of the accused under section 313, Cr PC, 1973. The order acquitting the accused under sections 500 and 211 was set aside; *Rubin Roy Chaudhury v State of WB*, 1998 Cr LJ 1699 (Cal), order taking cognizance of offence was held to be proper. The office bearers of an Institute hatched a plot to bring about expulsion of the complainant and his wife, *prima facie* on false basis.
225. *Karsan Jesang*, (1941) 43 Bom LR 858 , (1942) Bom 22.
226. Per Ranade, J, in *Raghavendra v Kashinathbhat*, (1894) 19 Bom 717, 725.
227. *Apaya*, (1913) 15 Bom LR 574 [LNIND 1913 BOM 44] .
228. *Sarada Prosad Chatterjee*, (1904) 32 Cal 180 , followed in *Gati Mandal*, (1905) 4 CLJ 88.
229. *Giridhari Naik*, (1901) 5 Cal WN 727.
230. (1872) 7 MHC (Appx) 5.
231. *Jugal Kishore*, (1886) 8 All 382 .
232. Per Edge, CJ in *Raghu Tiwari*, (1893) 15 All 336 , 338.
233. *Kashi Ram*, (1924) 22 ALJR 829; *Samokhan*, (1924) 26 Cr LJ 594 .
234. *Daroga Gope*, (1925) 5 Pat 33.
235. *Nota Ram*, (1941) 23 Lah 675. See *Muthra v Roora*, (1870) PR No. 16 of 1870; *Todur Mal v Mussammat Bholi*, (1882) PR No. 14 of 1882.
236. *Gopal Dhanuk*, (1881) 7 Cal 96 .
237. *Albert*, AIR 1966 Kerala 11 [LNIND 1965 KER 172] (FB).
238. *Rajkumar Malpani v Akella Sreenivasa Rao*, 2011 Cr LJ 2997 (AP).
239. *Jijibhai Govind*, (1896) 22 Bom. 596; *Karim Buksh*, (1888) 17 Cal 574 , FB; *Parahu*, (1883) 5 All 598 ; *Nanjunda Rau*, (1896) 20 Mad 79; *Mst Binia*, (1937) Nag 338; *Albert*, AIR 1966 Kerala 11 [LNIND 1965 KER 172] (FB).
240. *Karim Buksh*, *supra*.
241. *Rayan Kutti*, (1903) 26 Mad 640, 643; *Nihala*, (1872) PR No. 14 of 1872.
242. *Jamoon*, (1881) 6 Cal 620 ; *Sivan Chetti*, (1909) 32 Mad 258, overruling *Ramana Gowd*, (1908) 31 Mad 506; *Mathura Prasad*, (1917) 39 All 715 .
243. *Bhawani Sahai*, (1932) 13 Lah 568.
244. *Abdul Hakim Khan Chaudhuri*, (1931) 59 Cal 334 .
245. *Abdul Hasan*, (1877) 1 All 497 ; *Chenna Malli Gowda*, (1903) 27 Mad 129.
246. *Parmeshwar Lal*, (1925) 4 Pat 472.
247. *Dasarathi Mondal v Hari Das*, AIR 1959 Cal 293 [LNIND 1959 CAL 1] . On appeal *sub. nom. Hari Das*, AIR 1964 SC 1773 [LNIND 1964 SC 84] : 1964 (2) Cr LJ 737 .
248. *Santokh Singh*, 1973 Cr LJ 1176 : AIR 1976 SC 1489 .
249. *Bramanund Bhuttacharjee*, (1881) 8 CLR 233 ; *Karigowda*, (1894) 19 Bom 51; *Ganpatram v Rambai*, (1950) Nag 208.
250. *Abdul Ghafur*, (1924) 6 Lah 28.
251. *Ramana Gowd*, (1908) 31 Mad 506.
252. *Ibid*.
253. *Hicks v Faulkner*, (1878) 8 QBD 167 , 171; *Kapoor v Kairon*, 1966 Cr LJ 115 .

254. *Chidda*, (1871) 3 NWP 327; *Murad*, (1893) PR No. 29 of 1894.
255. *Parimi Bapirazu v Venkayya*, (1866) 3 MHC 238 .
256. *Karim Buksh*, (1888) 17 Cal 574 (FB).
257. *Nanjunda Rau*, (1896) 20 Mad 79.
258. *Parmeshwar Lal*, (1925) 4 Pat 472.
259. *Mallappa Reddi*, (1903) 27 Mad 127, 128.
260. *Bisheshar*, (1893) 16 All 124 ; *Pitam Rai v State*, (1882) 5 All 215 .
261. *Sultan*, (1887) PR No. 3 of 1888; *Khan Bahadar*, (1888) PR No. 26 of 1888; *Humayun*, (1907) PR No. 26 of 1908.
262. *Abdul Rehman v K M Anees-Ul-Haq*, 2012 Cr LJ 1060 (SC) : 2011 (10)SCC 696 [LNIND 2011 SC 1156] . See also *Harish Chandra Pathak v Anil Vats*, 2008 Cr LJ 2965 (All).
263. *M Devasenapathi*, 1984 Cr LJ NOC 34 (Mad); *K Ramakrishnan*, 1986 Cr LJ 392 (Ker).
264. *Narayan*, 1972 Cr LJ 1446 (Del—FB).
265. *PC Gupta v State*, 1974 Cr LJ 945 (All-FB).
266. *Kamalapati*, 1979 Cr LJ 679 : AIR 1979 SC 777 [LNIND 1978 SC 383] .
267. *Geetika Batra v OP Batra*, 2009 Cr LJ 2687 (Del). A private complaint cannot be filed for an offence under section 211-See *Subhash Ramchandra Durge v Deepak Annasaheb Gat*, 2000 Cr LJ 4774 (Bom).
268. *Rabin Roy Choudhury v State*, 1997 Cr LJ 1699 (Cal); *Dongari Venkatram v M Tirpathanna S I of Police, Kodad* 2006 Cr LJ 2697 (AP).
269. *Bir Chandra Das v Anil Kumar Sarkar*, 2011 Cr LJ 3422 (Cal).
270. *Chintamani Paul (Kumhar) v State of Jharkhand*, 2009 Cr LJ 2283 (Jhar).
271. *Jamoon*, (1881) 6 Cal 620 ; See also *Santokh Singh*, 1973 Cr LJ 1176 : AIR 1973 SC 2190 [LNIND 1973 SC 160] .
272. *Haibat Khan*, (1905) 33 Cal 30 .
273. *Sivaprakasam Pillai*, (1948) Mad 893.

THE INDIAN PENAL CODE

CHAPTER XI OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

Under the [Indian Penal Code, 1860](#) offences relating to false evidence and offences against public justice are contained in Chapter XI. In relation to proceeding in any Court, the offences enumerated are: giving false evidence or fabricating false evidence (sections 191–193); giving or fabricating false evidence with intent to procure conviction (sections 194 and 195); threatening any person to give false evidence (section 195A); using evidence known to be false (section 196); using as true a certificate known to be false (section 198); making a false statement in a declaration which is by law receivable as evidence (section 199); using as true any declaration receivable as evidence, knowing it to be false (section 200); causing disappearance of evidence of offence, or giving false information to screen offender (section 201); intentional omission to give information of offence by person bound to inform (section 202); giving false information in respect of an offence (section 203); destruction of document or electronic record to prevent its production as evidence (section 204); false personation (section 205); fraudulent removal/concealment of property (section 206); fraudulent claim to property (section 207); fraudulently suffering or obtaining decree for sum not due (section 208 and section 210); dishonestly making a false claim in Court (section 209); and intentional insult or interruption to public servant sitting in judicial proceedings (section 228). [Section 195 of Code of Criminal Procedure](#) provides that no Court shall take cognizance of any offence punishable under section 172–188 (dealing with the contempt of the lawful authority of public servants) or section 193–196, 199, 200, 205–211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of that Court by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.^{1.}

[s 212] Harbours offender—.

Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment;

If a Capital Offence;

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.

and if the offence is punishable with ²⁷⁴[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description

provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

^{275.}["Offence" in this section includes any act committed at any place out of ^{276.} [India], which, if committed in ^{277.} [India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in ^{278.} [India].]

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

ILLUSTRATION

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to ^{279.} [imprisonment for life], A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

COMMENT.—

Ingredients.—(i) the offence must have been committed, i.e., completed and there must be an 'offender';

(ii) there must be harbouring or concealment of a person by the accused;

(iii) the accused knows or has reason to believe that such harboured or concealed person is the offender;

(iv) there must be an intention on the part of the accused to screen the offender from legal punishment. ^{280.}

[s 212.1] Offender.—

The word used is 'offender' and not 'accused' or a person convicted for that offence. The person who is sheltering, harbouring or concealing that person must have knowledge or has reason to believe that he is the 'offender'. The word "offender" is not defined under [IPC, 1860](#). "Offender" as per the Dictionary, means "a person who has committed a crime or offence." Hence, a person who is convicted or acquitted may be an offender, for the purpose of section 212. An "offender" for the purpose of section 212 is neither a convict nor an accused, but he is a person who has actually committed the offence. The failure of the prosecution to prove the identity of the person who committed the offence does not render the person, who committed the offence, not an offender. He can be said to be an offender whose guilt has not been proved in Court. Yet, he is an offender, if he has committed an offence. ^{281.}

This section applies to the harbouring of persons who have actually committed some offence under the [Penal Code](#) or an offence under some special or local law, when the thing punishable under such special or local law is punishable with imprisonment for a term of six months or upwards. It does not apply to the harbouring of persons, not being criminals, who merely abscond to avoid or delay a judicial investigation. ^{282.} Where there was no material to show that the accused had the knowledge or that he reasonably believed that he was harbouring or concealing a person who was an

offender and the essential feature of secrecy was totally absent, it was held that no offence under section 212 was made out.²⁸³ It is the knowledge or the reasonable belief of the accused under section.212 that the person whom, he has harboured or concealed to be the offender, which is relevant. But, such knowledge or belief must be entertained by the accused, on the date on which he commits the offence by harbouring or concealing him.²⁸⁴

In the conspiracy for assassination of the former Prime Minister of India (Mr. Rajiv Gandhi), some of the accused persons appeared at the scene after achievement of the object. They played the role of harbouring and sheltering the main accused persons with full knowledge of their involvement in the assassination. They also made efforts to destroy evidence. Their conviction under section 212 was held to be proper.²⁸⁵

[s 212.2] Exception.—

The Exception only extends to cases where harbour is afforded by a wife or husband. No other relationship can excuse the wilful receipt or assistance of felons; a father cannot assist his child, a child his parent, a brother his brother, a master his servant, a servant his master.

[s 212.3] Section 212 IPC, 1860 and section 39 of Code of Criminal Procedure 1973.—

It is the duty of every citizen who is aware of commission of or of the intention of any other person to commit any offence punishable under sections 302, 304, 449, etc., to forthwith give information to the nearest Magistrate or police-officer of such commission of offence or intention. This provision is mandatory unless there is a reasonable excuse for omission or failure to inform. [Section 39 of the Code of Criminal Procedure](#) specifically provides that public "shall" give information to the police or the nearest Magistrate regarding commission of certain offences referred to in the said section. Section 39 is only a procedural section, violation of which is not made punishable under any penal statute, but, if a person who has knowledge or reasonable belief that a person is the offender can be treated as a person who is aware of the commission of the offence and even if he is not punishable for violating [section 39 of the Code of Criminal Procedure](#) when he harbours or conceals such an offender, he must certainly be guilty for offence under section 212.²⁸⁶

[s 212.4] Conviction of the person concealed—whether mandatory.—

Nowhere in section 212 it is stated that the person concealed should be convicted for an offence. Even if the main offender leaves unpunished by the Court, the object of the provision under section 212 requires that the person who has concealed or harboured the offender whom he believes and knows has committed the offence shall not leave unpunished if the other ingredients are established. The criminality lies in the act of concealment committed with the knowledge or belief that the person who is harboured or concealed is the offender and also with the criminal intention of screening him from legal punishment.²⁸⁷

1. *S Palani Velayutham v District Collector Tirunvelveli TN*, (2010) 1 SCC (Cr) 401 : [\(2009\) 10 SCC 664](#) [[LNIND 2009 SC 1659](#)] : [\(2009\) 12 SCR 1215](#) [[LNIND 2009 SC 1659](#)] .

274. Subs. by Act 26 of 1955, section 117 and Sch., for "transportation for life" (w.e.f. 1 January 1956).

275. Ins. by Act 3 of 1894, section 7.

276. The words "British India" have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, section 3 and Sch. (w.e.f. 1 April 1951), to read as above.

277. *Ibid.*

278. *Ibid.*

279. Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

280. *Sujith v State of Kerala*, [2008 Cr LJ 824](#) (Ker), *Aleem v State of AP*, [\(1995\) 1 Cr LJ 866](#) (AP). See also *State v Siddarth Vashisth, (alias Manu Sharma)*, [2001 Cr LJ 2404](#) (Del), the co-accused had knowledge that the accused had committed murder, both of them were fellow directors in a company. He sent the car to pick up the accused from the place of occurrence to facilitate his escape. Liable to be punished under the section.

281. *Sujith v State of Kerala*, [2008 Cr LJ 824](#) (Ker).

282. *Ramraj Choudhury*, (1945) 24 Pat 604; *Mir Faiz Ali v State of Maharashtra*, [1992 Cr LJ 1034](#) (Bom).

283. *State v Sushil Sharma*, [2007 Cr LJ 4008](#) (Del); *Niranjan Ojha v State of Orissa*, [1992 Cr LJ 1863](#) (Ori); Also see *Durga Shankar v State of Madhya Pradesh*, [2006 Cr LJ 2494](#) (MP).

284. *Sujith v State of Kerala*, [2008 Cr LJ 824](#) (Ker).

285. *State of TN v Nalini*, AIR [1999 Cr LJ 3124](#) : AIR [1999 SC 2640](#) [[LNIND 1999 SC 1584](#)] .

286. *Sujith v State of Kerala*, [2008 Cr LJ 824](#) (Ker).

287. *Sujith v State of Kerala*, [2008 Cr LJ 824](#) (Ker).

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[s 213] Taking gift, etc., to screen an offender from punishment—.

Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

if a capital offence;

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.

and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

COMMENT.—

The compounding of a crime, by some agreement not to bring the criminal to justice if the property is restored or a pecuniary or other gratification is given, is the offence punished by this and the following sections. It is the duty of every State to punish criminals. No individual has, therefore, a right to compound a crime because he himself is injured and no one else.

[s 213.1] Ingredients.—

The section has two essentials:

1. A person accepting or attempting to obtain any gratification or restitution of property for himself or any other person.
2. Such gratification must have been obtained in consideration of (a) concealing an offence, or (b) screening any person from legal punishment for an offence, or (c) not proceeding against a person for the purpose of bringing him to legal punishment. The most important ingredient of the charge, under section 213, viz., is that the payment was in relation to the interference with the course of a judicial proceeding and the tampering with the evidence.^{288.}

[s 213.2] Scope.—

According to the Calcutta High Court this section applies only where there has been an actual concealment of an offence, or screening of a person from legal punishment, or abstention from proceeding criminally against a person, and, as consideration for the same, there has been an acceptance of, or attempt to obtain, or agreement to accept, any gratification or restitution of property. It has no application where only an acceptance of or attempt to obtain, or agreement to accept, any gratification or restitution on a promise to conceal, screen or abstain, is proved and nothing more.^{289.} The Bombay High Court has dissented from this view and has held that this section does not require the actual concealment of an offence or the screening of any person from legal punishment or the actual forbearing of taking any proceedings. It is sufficient if an illegal gratification is received in consideration of a promise to conceal an offence or screen any person from legal punishment or desist from taking any proceedings.^{290.}

The section does not apply where the compounding of an offence is legal.

[s 213.3] Mere suspicion.—

This section is applicable only when it is proved that the person screened or attempted to be screened from legal punishment has been guilty of an offence, and not when there is merely a suspicion of his having committed some offence.^{291.}

1. *S Palani Velayutham v District Collector Tirunvelveli TN*, (2010) 1 SCC (Cr) 401 : (2009) 10 SCC 664 [LNIND 2009 SC 1659] : (2009) 12 SCR 1215 [LNIND 2009 SC 1659] .
288. *Mir Faizali Shaheen v The State of Maharashtra*, 1991 Cr LJ 1034 (Bom).
289. *Hemachandra Mukherjee*, (1924) 52 Cal 151 .
290. *Biharilal Kalacharan*, (1949) 51 Bom LR 564 .
291. *Girish Myte*, (1896) 23 Cal 420 ; *Sanalal; Gordhandas*, (1913) 15 Bom LR 694 [LNIND 1913 BOM 68] , 37 Bom 658, there must be knowledge that such person was an offender; *Sumativijay Jain v State of MP*, 1992 Cr LJ 97 (MP)

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[s 214] Offering gift or restoration of property in consideration of screening offender—.

Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or ^{292.} [restores or causes the restoration of] any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment;

if a capital offence;

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.

and if the offence is punishable with ^{293.} [imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;