

## 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.<sup>1</sup>.

#### **116.[s 195A] Threatening or any person to give false evidence.**

**[Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both;**

**and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.]**

#### **COMMENTS.—**

In a prosecution under sections 489B and 489C, all prosecution witnesses who were police officials turned hostile. Subsequently they filed affidavits stating that they were threatened by higher officers not to support their previous statements during investigation. Court set aside the order of acquittal of the accused, ordered re-trial and directed to proceed under sections 193 and 195A.<sup>117</sup>.

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](#)] .
116. New section 195A Ins. by The [Criminal Law \(Amendment\) Act, 2005](#) (Act No. 2 of 2006), section 2 (w.e.f. 16 April 2006 *vide* Notfn. No. SO 523(E), dated 12 April 2006.
117. *Court on Its Own Motion v State of Punjab*, [2012 Cr LJ 2240](#) (PH).

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#### **[s 196] Using evidence known to be false.**

**Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.**

#### **COMMENT.—**

This section applies to those who make use of such evidence as is made punishable by sections 193, 194 and 195. It must be read with sections 191 and 192, and can only apply to the use of evidence which was false evidence within the meaning of section 191, or fabricated evidence within the definition laid down in section 192.<sup>118.</sup> Where an expert witness deposing on behalf of the defence claimed to be a diploma holder in criminology from the Imperial College of Science and Technology, London and it was found that the said claim was totally false and the diploma produced by him was a forged document, it was held he committed an offence in relation to Court proceedings under [sections 193 and 196, IPC, 1860](#), and as such a Court complaint under section 195 (1)(b)(i), [Cr PC, 1973](#), was necessary to prosecute him.<sup>119.</sup>

The word 'corruptly' in this section means something different from "dishonestly" or "fraudulently". Although the user may not be dishonest or fraudulent, it may nevertheless be corrupt, if the user is designed to corrupt or prevent the course of justice. A person who files rent receipts alleged to have been granted by one of the landlords, who actually signs the receipts to support a false case of a tenancy under the landlord, does not commit an offence under section 471, but is guilty of corruptly using as true or genuine evidence which he knows to be false within the meaning of this section.<sup>120</sup>.

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] .
118. *Lakshmaji*, (1884) 7 Mad 289, 290.
119. *Dr. S Dutt*, 1966 Cr LJ 459 : AIR 1966 SC 595 [LNIND 1965 SC 196] .
120. *Bibhuranjan Gupta*, (1949) 2 Cal 440 .

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#### **[s 197] Issuing or signing false certificate.**

**Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.**

#### **COMMENT.—**

Several laws require a certificate of some matter to be given. The offence of certifying in any of these, knowing or believing that the certificate is false, is put on the same footing as the offence of giving false evidence. The certificate must, however, be false in a material point. The issuing or signing must be by the officer or person authorized to certify.

#### **[s 197.1] Ingredients.—**

The section has two essentials:—

1. Issuing or signing of a certificate—

- (a) required by law to be given or signed, or
  - (b) relating to a fact of which such certificate is by law admissible in evidence.
2. Such certificate must have been issued or signed knowing or believing that it is false in any material point.

Before convicting a person for offence under [section 197, IPC, 1860](#) the prosecution must prove the following facts:—

- (i) that the document in question purports to be a certificate;
- (ii) that such certificate is required by law to be given or signed, or that it related to some fact of which such certificate is by law admissible in evidence;
- (iii) that such certificate is false;
- (iv) that it is false in a material point;
- (v) that the accused issued or signed the same;
- (vi) that he, when doing so, knew or believed, such certificate to be false.<sup>121.</sup>

**[s 197.2] Certificate.—**

As per section 197, certificate contemplated therein is a certificate, which is required not to be given or signed for the use in the Court's administration of Justice. That means, certificate is issued as required by some law and it has some reference to some statutory requirements. Information given by petitioner to Process Server is that he has not heard about the Noticee for the last two years and his whereabouts are not known. That is not a certificate contemplated under any statute. Therefore, section 197 also will have no application.<sup>122.</sup> The expression "by law admissible in evidence" means that the certificate should by some provision of law be admissible in evidence as such a certificate without further proof.<sup>123.</sup> A medical certificate is not such a certificate and the issue or use of a false medical certificate does not render a person liable under this section or section 198.<sup>124.</sup>

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](#)] .

<sup>121.</sup> *Mangtu Ram v State of Rajasthan*, [2003 Cr LJ 4733](#) (Raj).

<sup>122.</sup> *D Jothi v KP Kandasamy*, [2000 Cr LJ 292](#) (Mad).

<sup>123.</sup> *Mahabir Thakur*, (1916) 23 CLJ 423; *Kumar Choudhari v State*, (1936) 16 Pat 21; *Prafulla Kumar Khara*, [\(1942\) 1 Cal 573](#) . A caste certificate issued by an MLA to a student to enable him to get a pre-matric scholarship has been held to be not a certificate within the meaning of this section. *Haladhara Karji v Dileswar Subudhi*, [1989 Cr LJ 629](#) (Ori), no caste was mentioned in the

certificate. *Premalata v State of Rajasthan*, [1998 Cr LJ 1430](#) (Raj), a statement would become a false certificate if the law requires the issue of such a certificate as a legal proof. In this case the certificate was issued by the headmaster, though he was not authorised to do so. The candidate used the certificate for obtaining an appointment. A *prima facie* case under section 198 was made out against the headmaster.

124. *Prafulla Kumar Khara, Ibid.*

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#### **[s 198] Using as true a certificate known to be false.**

**Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.**

#### **COMMENT.—**

This section is connected with section 197 just as section 196 is connected with sections 193, 194 and 195.<sup>125.</sup> Appellant used the duplicate certificate with changes, as a true certificate knowing it to be false in material particular and thereby got admission in Polytechnic. Therefore, there is no reason to interfere with the conviction. However, looking to the nature of the offence and the fact that the appellant's past and present records have been good and the fact that he has already lost his career and is now married, reduced the sentence to that already undergone.<sup>126.</sup>



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] .
125. *Premalata v State of Rajasthan*, 1998 Cr LJ 1430 (Raj), for notes on the case see under section 197.
126. *Tulsibhai Jivabhai Changani v State of Gujarat*, (2001) 1 SCC 719 [LNIND 2000 SC 2333] : 2001 Cr LJ 741 .

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#### **[s 199] False statement made in declaration which is by law receivable as evidence.**

**Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorised by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.**

#### **COMMENT.—**

This section makes the penalty attached to the offence of giving false evidence applicable to declarations which, although not compellable, have, on being made, the same effect as the compulsory declarations referred to in sections 51 and 191.<sup>127.</sup> Voluntary declarations are thus placed on the same level as compulsory declarations. The Supreme Court has said that the complaint for an offence under [section 199, IPC, 1860](#), must make out the offence by singling out false averment in the complaint. Thus, where the allegation was that the accused had used a false affidavit before the Rent