

(4) which he either knows or believes to be false, or does not believe to be true (**section 191**).

If the Court has no authority to administer an oath, or if it has no jurisdiction at all, the proceedings will be without jurisdiction. Oath or solemn affirmation is not a condition precedent to this offence. The false statement need not be material to the case. It is not limited to evidence before a Court of Justice, but covers any statement made, under oath or otherwise, in pursuance of a legal duty to make it. A false allegation in a written statement amounts to this offence. Illegality of a trial does not purge perjury committed in that trial. An accused is not liable if he gives false answers to questions put by the Court.

A person is said to 'fabricate false evidence' if he

Fabricating false evidence.

(1) causes any circumstance to exist; or

(2) makes any false entry in any book or record; or

(3) makes any document containing a false statement;

(4) intending that such circumstance, *false entry or false statement* may appear in evidence in (a) a judicial proceeding, or (b) a proceeding taken by law before a public servant or an arbitrator; and

(5) may cause any person, who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion;

(6) touching any point material to the result of such proceeding (**section 192**). [If evidence is given or fabricated for the purpose of being used in any stage of a judicial proceeding, seven years and fine; in any other case, three years and fine (**section 193**).]

This section refers to judicial proceedings. Section 181 refers to any proceeding before a public servant. The definition of 'judicial proceeding' in [Cr PC, 1973](#), is not applicable to sections 192 and 193.

Intention is the gist of the offence of fabricating false evidence.

The false evidence must be *material* to the case, though it may not be so under section 191. If no erroneous opinion could be formed touching any point material to the result of a proceeding there is no fabrication.

As soon as the false evidence is *fabricated* the offence is complete. Actual use of such evidence is not necessary. Such use is punishable under section 196. The fabricated evidence must, however, be admissible evidence. The offence cannot be committed before a public servant not authorized to hold an investigation.

Where a person makes two contradictory statements he can be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of those contradictory statements is false. *KTMS Mohd v UOI*, (Supreme Court).

Persons accused of giving or fabricating false evidence should be tried separately and not jointly.

An accused person who fabricates evidence to escape punishment is not liable under this section, unless he contemplates injury to someone else.

The aggravated forms of these two offences are—

1. Giving or fabricating false evidence with intent to procure conviction of a capital offence (**section 194**).
2. Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for life or imprisonment (**section 195**).
3. Threatening or inducing any person to give false evidence (**section 195A**).

The following offences are punishable in the same manner as the giving of false evidence:—

1. Issuing or signing any certificate required by law to be given or signed or by law made evidence of any fact knowing or believing that such certificate is false in any material point (**section 197**).
2. Using as true a certificate known to be false in a material point (**section 198**).
3. False statement made in any declaration which touches any material point and which is by law receivable as evidence (**section 199**).
4. Using as true any such declaration known to be false in any material point (**section 200**).
5. Causing disappearance of evidence of the offence or giving false information to screen offender. The punishment is linked with the type of offence of which the evidence is destroyed. (**section 201**).
6. Intentional omission to give information by the person who is bound to inform (**section 202**).
7. Giving false information in respect of an offence which has been committed (**section 203**).

Destruction or secreting or obliteration of a document to prevent its production in evidence in a court is punishable (**section 204**).

There are two offences in this chapter dealing with false personation.

Personation

1. Falsely personating another, and in such assumed character making any admission or statement, or confessing judgment or causing any process to be issued or becoming bail or security, or doing any other act in any suit or prosecution (section 205).

Any fraudulent gain or benefit to the offender is not necessary.

The Calcutta High Court has held that a person commits this offence even if he personates a purely imaginary person. The Madras High Court, following English precedents, has held to the contrary.

2. Personating a juror or assessor. (**section 229**).

The following provisions deal with the abuse of process of court:—

Abuse of process of Court.

1. Fraudulent removal or concealment of property to prevent its seizure as forfeiture or in execution of a decree (section 206).
2. Fraudulent claim to property to prevent its seizure as forfeiture or in execution (section 207).
3. Fraudulently suffering a decree for a sum not due (section 208).
4. Fraudulently or dishonestly making a false claim in court (section 209).
5. Fraudulently obtaining a decree for a sum not due or causing a decree or order to be executed against any person after it has been satisfied (section 210).

The fact that the satisfaction of a decree is of such a nature that the court executing the decree cannot recognize it, does not prevent the decree-holder from being convicted of this offence.

6. False charge of an offence.

This has four ingredients:—

- (1) Instituting or causing to be instituted any criminal proceedings, or
- (2) Falsely charging any person with having committed an offence,
- (3) Knowledge that there is no just or lawful ground for it,
- (4) Doing as above with intent to cause injury to any person (section 211). [Two years, or fine, or both. If criminal proceedings, be instituted on a false charge of an offence punishable with death, imprisonment for life, or imprisonment for seven years or upwards, then the punishment is seven years and fine.]

Criminal law may be put in motion—

- (1) by giving information to the police, or
- (2) by lodging a complaint before a Magistrate.

A false charge to the police in respect of a *cognizable* offence amounts to institution of criminal proceedings. But as the police have no power to take any proceedings in *non-cognizable* cases without orders from a Magistrate, a false charge of such offence made to the police is not an institution of criminal proceedings but merely a false charge. No such distinction exists when a false charge of any offence is made before a Magistrate.

Leading cases:—R v Karim Buksh. R v Jijibhai. Santosh Singh.

For a false charge of offence of a serious nature severe punishment is provided. According to the Calcutta and the Madras High Courts, in such cases it is not necessary that criminal proceedings should be instituted, the charge should merely relate to a serious offence; whereas the Allahabad High Court has held that criminal proceedings should have been actually instituted.

Leading cases:—R v Karim Buksh(Cal). R v Nanjunda Row(Mad). R v Bisheshar(All).

The bringing of a vexatious charge is not an offence under this section. The compounding of the offence alleged to have been committed is no bar to a prosecution

under this section. The person aggrieved may sue in a civil suit for damages for malicious prosecution instead of instituting criminal proceedings.

There is a difference between section 182 and section 211.

Bombay High Court.—Under section 182 proof of (1) malice, and (2) want of reasonable and probable cause, except so far as they are implied in the act of giving false information, is not necessary; under section 211 such proof is absolutely required (*Raghavendra v Kashinathbhat*).

Calcutta High Court.—Prosecution for a false charge may be under either of these sections. But if the false charge is of a serious nature, section 211 should be applied (*Sarada Prosad Chatterjee*).

Allahabad High Court.—Where a specific false charge is made, the proper section to apply is section 211. An offence under section 182 is complete when false information is given to a public servant although the latter takes no steps towards the institution of criminal proceedings (*Jugal Kishore; Raghu Tiwari*).

Patna High Court.—It follows the view of the Calcutta High Court.

Punjab.—The former Chief Court of the Punjab followed the view of the Bombay High Court.

Screening an offender.

1. Causing disappearance of evidence of an offence or giving false information to screen the offender (section 201).

An offence should have been actually committed to render a person liable. An offender himself causing the disappearance of evidence can be held liable under this section.

2. Taking gift to screen an offender from punishment (**section 213**).

3. Offering gift or restoration of property in consideration of screening an offender (**section 214**).

Taking any gratification on account of helping any person to recover any moveable property of which he has been deprived by any offence under this Code is punished unless the person taking gift uses all means in his power to cause the offender to be apprehended (**section 215**).

Harbouring an offender.

1. Harbouring or concealing a person knowing him to be an offender with the intention of screening him from legal punishment (**section 212**).

2. Harbouring or concealing an offender who has escaped from custody, or whose apprehension has been ordered (**section 216**).

3. Knowingly harbouring any persons who are about to commit, or have committed, robbery or dacoity (**section 216A**).

The following provisions deal with offences against public justice committed by public servants:—

Offences by public servants.

1. Public servant knowingly disobeying a direction of law with an intent to save any person from punishment or any property from forfeiture (**section 217**).
2. Public servant, charged as such with the preparation of a record or other writing, framing it incorrectly with intent to cause loss or injury to the public or any person, or to save any person from punishment or property from forfeiture (**section 218**).
3. Public servant in a judicial proceeding corruptly or maliciously making any report, order, verdict, or decision, knowing that it is contrary to law (**section 219**).
4. Public servant corruptly or maliciously committing any person for trial, or keeping any person in confinement knowing that he is acting contrary to law (**section 220**).

The Supreme Court analysed the requirements of this section in *Suryamoorthy v Govindaswami*.

5. Public servant intentionally omitting to apprehend, or suffering to escape, any person when legally bound to apprehend or keep him in confinement (**section 221**).
6. Same as above, when such person is under sentence or lawfully committed to custody (**section 222**).
7. Public servant legally bound to keep in confinement a person charged with, or convicted of, any offence, negligently suffering him to escape (**section 223**).
8. Public servant omitting to apprehend or suffering to escape from confinement any person in cases not otherwise provided for (**section 225A**).

Resisting the law is punishable in the following cases:—

1. A person resisting or obstructing the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted; or escaping or attempting to escape from legal custody (**section 224**).
2. Resisting or obstructing lawful apprehension of another person for an offence, or rescuing or attempting to rescue him from legal custody (**section 225**).
3. Resistance or obstruction to lawful apprehension, or escaping or rescuing from legal custody in cases not otherwise provided for (**section 225B**). Violation of condition of remission of punishment (**section 227**).

Contempt of Court.

A person is guilty of contempt of Court if he intentionally offers any insult or causes any interruption to any public servant, while he is sitting in any stage of a judicial proceeding (**section 228**). [Six months' simple imprisonment, or Rs. 1,000, or both.]

A person who prints or publishes the name or discloses the identity of the victim of a rape case and other sexual offences under sections 376A, 376B, 376C or 376D without due authorisation or permission of the court shall be punishable with imprisonment of either description for a term which may extend to two years and shall also be liable to fine (**section 228A**).

This section, however, does not apply to the publication of the judgment of any High Court or the Supreme Court (**Explanation to section 228A**).

Coin and Stamps. Chapter XII.

Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign power in order to be so used. Old coins not used as money are not coins under this definition.

Indian coin is—

(1) metal stamped and issued—

- (a) by the authority of the Government of India,
- (b) in order to be used as money;

(2) Metal which has been so stamped or issued shall continue to be Indian coin notwithstanding that it may have ceased to be used as money (**section 230**).

Following are the various offences relating to coin:—

1. Counterfeiting coin or Indian coin (**sections 231, 232**).
2. Making, mending, buying, or selling, or disposing of any die or instrument for counterfeiting coin or Indian coin (**sections 233, 234**).
3. Being in possession of any instrument or material for the purpose of using the same for counterfeiting of coin or Indian coin (**section 235**).
4. Abetting in India, counterfeiting of coin out of India (**section 236**).

Abetment must be completed in India.

5. Importing or exporting of a counterfeit coin or Indian coin (**sections 237, 238**).
6. Delivery to another of a coin or Indian coin possessed with the knowledge that it is counterfeit (**sections 239, 240**).
7. Delivery to another of a counterfeit coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit (**section 241**).
8. Possession of a counterfeit coin or Indian coin by a person who knew it to be counterfeit when he became possessed thereof (**sections 242, 243**).

Possession must be with intent to defraud.

9. Any person employed in a mint causing a coin to be of different weight or composition from that fixed by law (**section 244**).
10. Unlawfully taking from a mint any coining instrument or tool (**section 245**).
11. Fraudulently or dishonestly diminishing the weight or altering the composition of any coin or Indian coin (**sections 246, 247**).
12. Altering appearance of any coin or Indian coin with intent that it shall pass as a coin of different description (**sections 248, 249**).
13. Delivery to another of a coin or Indian coin possessed with the knowledge that it is altered (**sections 250, 251**).

There must be both possession with knowledge and fraudulent delivery.

14. Possession of an altered coin or Indian coin by a person who knew it to be altered when he became possessed thereof (**sections 252, 253**).

15. Delivery to another of an altered coin as genuine, which, when first possessed, the deliverer did not know to be altered (**section 254**).

The following offences relate to Government stamps:—

1. Counterfeiting or performing any part of the process of counterfeiting a government stamp (**section 255**).

2. Possession of an instrument or material for the purpose of counterfeiting a government stamp (**section 256**).

3. Making, buying, or selling any instrument for the purpose of counterfeiting a government stamp (**section 257**).

4. Sale of a counterfeit government stamp (**section 258**).

5. Possession of a counterfeit government stamp (**section 259**).

6. Using as genuine a government stamp known to be counterfeit (**section 260**).

7. Fraudulently affecting any writing from a substance bearing a Government stamp or removing from a document the stamp used for it, with intent to cause loss to the Government (**section 261**).

8. Using a government stamp known to have been before used (**section 262**).

9. Fraudulently erasing from a government stamp any mark denoting that the same has been used, or selling or disposing of a stamp from which such a mark has been erased (**section 263**).

10. Possession of a fictitious stamp or of any die, plate or instrument for making any fictitious stamp (**section 263A**).

Weights and measures. Chapter XIII.

The following offences relate to weights and measures:—

1. Fraudulent use of false instruments for weighing (**section. 264**).

2. Fraudulent use of a false weight or measure or using any weight or measure of length or capacity, as a different weight or measure from what it is (**section 265**).

3. Possession of any instrument for weighing, or of any weight or measure of length or capacity, knowing it to be false, intending that the same may be fraudulently used (**section 266**).

4. Making, selling, or disposing of any false instrument for weighing or any false weight or measure of any length or capacity in order that the same may be used or knowing that it is likely to be used as true (**section 267**).

Nuisance. Chapter XIV.

A person is guilty of public nuisance who does

(1) any act, or is guilty of an illegal omission; and

(2) such act or omission causes

(a) any common injury, danger, or annoyance (i) to the public, or (ii) to the people in general who dwell or occupy property in the vicinity; or

(b) any injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right (**section 268**).

Nuisance is either (1) public, or (2) private. The former is an offence against the public as it affects the public at large, or some considerable portion of public. It depends in a great measure upon the number of houses and the concourse of people in the vicinity; and the annoyance or neglect must be of a real and substantial nature. Public nuisance cannot be excused on the ground that the act complained of is inconvenient to a large number of the public. Acts which seriously interfere with the health, safety, comfort, or convenience of the public generally, or which tend to degrade public morals, have always been considered public nuisance. A brew-house, glass-house, or swine-yard, may be a public nuisance if it is shown that the trade is such as to render enjoyment of life and property uncomfortable. Public nuisance can only be the subject of one indictment, otherwise a party might be ruined by a million prosecutions. No prescriptive right can be acquired to maintain a public nuisance.

Private nuisance is anything done to the hurt or annoyance of the lands, tenements, or hereditaments of another, and not amounting to trespass. It is an act affecting some particular individual or individuals as distinguished from the public at large. It is in the quantum of annoyance that public nuisance differs from private. Private nuisance cannot be a subject of indictment but a ground of a civil action for damages, or injunction, or both.

The following offences affect public health:—

1. Negligent or malignant act likely to spread infection of any disease dangerous to life (**sections 269, 270**). The Supreme Court considered under this section the position of a person suffering from HIV (AIDS) *X v Z*.

2. Wilful disobedience to a quarantine rule (**section 271**).

3. Adulteration of food or drink intended for sale so as to make it noxious (**section 272**).

4. Selling, offering or exposing for sale, as food or drink, any article which has been rendered or has become noxious or unfit for food or drink (**section 273**).

5. Adulteration of drug so as to lessen its efficacy, change its operation or render it noxious (**section 274**).

6. Knowingly selling or causing to be used for medicinal purposes any adulterated drug (**section 275**).

7. Selling, or offering or exposing for sale, or issuing from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation (**section 276**). Possession has been taken to be evidence of intention (*sabapathie*).

In the States of West Bengal and Uttar Pradesh offences under **sections 272, 273, 274, 275 and 276** [IPC, 1860](#), have by virtue of local amendments been made cognizable,

non-bailable and punishable with imprisonment for life (see COMMENT under **section 272**).

8. Voluntarily corrupting or fouling the water of a public spring or reservoir so as to render it less fit for the purpose for which it is ordinarily used (**section 277**).

9. Voluntarily vitiating the atmosphere so as to make it noxious to the public health (**section 278**). Carrying such material without proper protection and dumping it at some place, though temporarily, constituted offences. *Durham County Council v Peter Connors Industrial Services* and *R v Metropolitan S Magistrate*.

The following offences relate to public safety:—

1. Rash or negligent driving or riding on a public way so as to endanger human life, or to cause hurt or injury to any other person (**section 279**).

Negligence is the breach of a duty caused by the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs, would do, or the doing of something which a prudent and reasonable man would not do.

There is a distinction between a rash act and a negligent act. Culpable rashness is acting with the consciousness that the mischievous and illegal consequences may follow but with the hope that they will not. Culpable negligence is acting without the consciousness that the illegal and mischievous effect will follow. As between rashness and negligence, rashness is a graver offence.

Leading cases:—Bhalchandra. Padmasharan Naik.

2. Rash or negligent navigation of a vessel (**section 280**).

3. Exhibiting any false light, mark, or buoy, intending or knowing it to be likely to mislead any navigator (**section 281**).

4. Conveying a person by water for hire in a vessel overloaded or unsafe (**section 282**). Hijacking and threat to blow up an aircraft have been considered under this section (*R v Mason*).

5. Causing danger, obstruction, or injury to any person in a public way or public line of navigation (**section 283**).

6. Rash or negligent conduct with respect to any poisonous substance so as to endanger human life, or to be likely to cause hurt or injury to any person (**section 284**).

7. Rash or negligent conduct with respect to any fire or combustible matter (**section. 285**).

8. Rash or negligent conduct with respect to any explosive substance (**section. 286**).

9. Rash or negligent conduct with respect to any machinery in the possession or under the charge of the offender (**section. 287**).

10. Negligence with respect to pulling down or repairing buildings (**section. 288**).

11. Negligence with respect to any animal (**section. 289**).

Acts of public nuisance other than those mentioned above are punishable under the general section (**section. 290**). A person cannot continue a public nuisance after injunction to discontinue (**section. 291**).

Offences against public morals and decency are:—

1. (a) Selling, letting to hire, distributing, or publicly exhibiting or circulating any obscene book, pamphlet, paper, drawing, painting, representation or figure or any obscene object; or
- (b) importing, exporting, or conveying any obscene object for any of the above purposes; or
- (c) taking part in or receiving profits from any business conducted for the abovementioned purposes; or
- (d) advertising that any person is engaged in any of the abovementioned acts, or that any obscene object can be got from that person; or
- (e) attempting to do any act which is an offence under this section (**section. 292**).

Leading cases:—Ranjit Udeshi. Samaresh Basu v Amal Mitra. Raj Kapoor v Laxman. Mahajan Singh v Commr. of Police.

2. Selling, letting to hire, distributing, exhibiting, or circulating to any person under the age of 20 years any obscene object referred to above, or attempting to do so (**section. 293**).

A book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object is deemed obscene if it is lascivious or appeals to the prurient interest or if its effect taken as a whole is such as tends to deprave and corrupt persons who are likely to see, read or hear the matter.

3. Causing annoyance to others by—

- (a) doing any obscene act in any public place; or
- (b) singing, reciting, or uttering any obscene song, ballad or words, in or near any public place (**section 294**).

- (4) Keeping any office, or place, for the purpose of drawing any lottery not being a state lottery or a lottery authorised by the State Government (**section 294A**).

Whoever publishes any proposal to pay any sum, or to deliver any goods, on drawing of any ticket, lot or number, in a lottery is also punished (*ibid*). [Fine up to Rs. 100.]

An agreement for contributions to be paid by lot, or a transaction requiring skill for winning prizes is not a lottery. Transactions in which prizes are decided by chance amount to lottery.

Offences relating to religion. Chapter XV.

Chapter XV treats of offences relating to religion. They are as follows:—

1. Injuring or defiling a place of worship, or any object held sacred by any class of persons, with intent to insult the religion of any class of persons (**section 295**).
2. Deliberate and malicious acts intended to outrage religious feelings of any class, by insulting its religion or religious belief irrespective of the fact whether the religious belief in question is rational or irrational. (**section 295A**).