

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 221] Intentional omission to apprehend on the part of public servant bound to apprehend.

Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with ^{337.}[imprisonment for life] or imprisonment for a term which may extend to ten years; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been

apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.

COMMENT.—

Sections 221, 222 and 223 provide for intentional omission to apprehend, or negligently suffering the escape of, offenders on the part of public servant bound to apprehend or to keep in confinement.

[s 221.1] CASE.—

Where a constable acting as a Court *Moharrir* instead of sending the accused to jail custody as ordered by the Magistrate directed his release and thus allowed him to escape, it was held that the release being in violation of his legal obligation to have the accused detained in jail custody, the *Moharrir* was clearly liable under [section 221, IPC, 1860](#).³³⁸ Accused was entrusted with escort duty for the convict to the Hospital. Convict was the younger brother of accused's wife. Accused allowed him to escape from Custody. The Karnataka High Court upheld the conviction under sections 221, 222 and 223.³³⁹

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] .

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

338. *Rampal*, 1979 Cr LJ 711 : AIR 1979 SC 1184 .

339. *Younus Khan v State of Karnataka*, 2013 Cr LJ 1040 (Kar)

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[s 222] Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.

Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence ^{340.}[or lawfully committed to custody], intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

with ^{341.}[imprisonment for life] or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to ^{342.}[imprisonment for life] ^{343.***} ^{344.***} ^{345.***} ^{346.***} or imprisonment for a term of ten years or upwards; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been

apprehended is subject, by a sentence of a Court of Justice, to imprisonment for a term not exceeding to ten years [or if the person was lawfully committed to custody].

COMMENT.—

This section is similar to the last section with the exception that the person to be apprehended has already been convicted or committed for an offence. It is thus an aggravated form of the offence made punishable by the last section.

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](#)] .

340. Ins. by Act 27 of 1870, section 8.

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

342. *Ibid.*

343. The words "or penal servitude for life" omitted by Act 17 of 1949, section 2 (w.e.f. 6 April 1949).

344. The words "or to" omitted by Act 36 of 1957, section 3 and Sch II (w.e.f. 17 September 1957).

345. The word "transportation" omitted by Act 26 of 1955, section 117 and Sch (w.e.f. 1 January 1956).

346. The words "or penal servitude" omitted by Act 17 of 1949, section 2 (w.e.f. 6 April 1949).

THE INDIAN PENAL CODE

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[s 223] Escape from confinement or custody negligently suffered by public servant.

Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with ³⁴⁷[or convicted of any offence or lawfully committed to custody], negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

COMMENT.—

This section further extends the principle laid down in the two preceding sections. It punishes a public servant who *negligently* suffers any person charged with an offence to escape from confinement. The last two sections deal *with intentional omission* to apprehend such person.

[s 223.1] Ingredients.—

In order to establish the charge under [section 223, IPC, 1860](#) the following facts have to be established:—

- (i) The accused was a public servant.
- (ii) As such public servant he was bound to keep in confinement any person.
- (iii) Such person was charged with or convicted of an offence or lawfully committed to custody.
- (iv) The accused suffered such person to escape.
- (v) The escape was due to the negligence of the public servant.^{348.}

[s 223.2] Lawful custody.—

Unless the custody is lawful no offence under this section is committed. If a public servant has no right to keep a person in custody, he is not guilty of allowing that person to escape.^{349.} Since the check post officer appointed under section 41(2) Bihar Sales Tax Act had no power to detain personnel or driver of a truck which contravened the provisions of the Act, he could not be prosecuted for an offence under [section 223, IPC, 1860](#), for allowing detained person to escape especially because section 223 speaks of "confinement of persons charged with or convicted of any offence or lawfully committed to custody". Even assuming that such a check post officer could detain a person, still he could not be prosecuted as detention was not synonymous with confinement nor the persons escaping were charged or convicted of any offence.^{350.} A constable who moved about in a market place with the prisoner whom he was supposed to bring to the Court and he escaped, the case was held to be fit one for imposing substantive punishment.^{351.}

This section applies only to cases where the person who is allowed to escape is in custody for an offence, or has been committed to custody, and not to cases where such person has merely been arrested under a civil process.^{352.} The latter case would come under section 225A. Due to the negligence and carelessness of the police constable one accused escaped from police lock-up. It is proved that the petitioner was on duty at lock-up room when the accused escaped. Conviction is held proper.^{353.}

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] .

^{347.} Ins. by Act 27 of 1870, section 8.

^{348.} *Banshidhar Swain v State of Orissa*, 1987 Cr LJ 1819 (Ori).

^{349.} *Debi*, (1907) 29 All 377 .

^{350.} *Girja Shankar Sahay*, 1972 Cr LJ 988 (Pat).

^{351.} *Banshidhar Swain v State of Orissa*, 1987 Cr LJ 1819 (Ori).

^{352.} *Tafaulah v State*, (1885) 12 Cal 190 .

^{353.} *Gurdeep Singh v State of Punjab*, 2009 Cr LJ 3745 (PH).

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[s 224] Resistance or obstruction by a person to his lawful apprehension.

Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence,¹ shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

COMMENT.—

This and the section following relate to resistance or illegal obstruction offered to the lawful apprehension of any person. Sections 221–223 punish public servants who fail to apprehend or confine persons liable to be apprehended or confined.

[Section 224, IPC, 1860](#) has two distinct parts. The first relates to resistance to apprehension and the second part relates to escape from custody. In order to bring

home the guilt of the accused under first part, the prosecution is to prove the following ingredients:—

- (1) that the accused was charged or convicted;
- (2) that he offered resistance or obstruction to his apprehension;
- (3) that such resistance or obstruction was illegal; and
- (4) that the accused offered such resistance or obstruction illegally.

When the offence charged is that of escape or attempt to escape from custody, the prosecution is to prove the following:

- (1) that the accused was taken into custody for commission of an offence;
- (2) that such detention in custody was lawful;
- (3) that the accused escaped from such custody or made an attempt to do so; and
- (4) that the accused did so intentionally.^{354.}

1. 'Escapes...from any custody in which he is lawfully detained for any such offence'.—

Escape must be from the custody in which the person escaping has been detained legally. A person of the same name as the offender was arrested, tried and acquitted. Whilst under arrest he escaped from custody. It was held that he was not liable to be convicted under this section because he was not lawfully detained for any offence.^{355.} It is only after a person has been arrested that the question of custody arises merely because the person was brought to the *thana* for the purpose of interrogation it could not be said that he was under lawful custody, even though two constables might be sitting by his side.^{356.} Where certain persons were apprehended for gaming and they escaped from police custody, it was pointed out by the Supreme Court that they could have been convicted under this section.^{357.} Where the accused attacked the police personnel and rescued a person from the legal custody of the police but the person rescued neither resisted the arrest nor joined in the attack, he could only be convicted under section 224 for taking advantage of his release.^{358.} Where an accused lawfully arrested escaped after causing a knife injury to the Head Constable, he was guilty under section 224 and his friends who pelted stones at the police party with a view to rescue him were guilty under [section 225, IPC, 1860](#).^{359.}

[s 224.1] Explanation.—

The Explanation does not require that a sentence of imprisonment must be made to run consecutively to a sentence imposed for the main offence of which the accused has been convicted.^{360.}

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] .

^{354.} *State of Orissa v Purna Chandra Jena*, 2005 Cr LJ 505 (Ori).

355. *Ganga Charan Singh*, (1893) 21 Cal 337 ; *People's Union for Civil Liberties v State of Maharashtra*, 1998 Cr LJ 2138 (Bom).
356. *Maheswar v State of UP*, (1953) Cut 751.; 2003 Cr LJ 3663 (Bom).
357. *Ajab v State of Maharashtra*, AIR 1989 SC 827 : 1989 Cr LJ 954 : 1989 Supp (1) 601 .
358. *Prithvi Nath Pandey v State of UP*, 1994 Cr LJ 3623 (All).
359. *Vaghari Kala Bhikha*, 1985 Cr LJ 237 (Guj).
360. *Chokhu*, (1934) 36 Bom LR 963 .

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[s 225] Resistance or obstruction to lawful apprehension of another person.

Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with ^{361.} [imprisonment for life] or imprisonment for a term 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;

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

or, if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to ^{362.} [imprisonment for life] ^{363.} [*] ^{364.} [***] ^{365.} [***] or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either**