

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 217] Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.

Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

COMMENT.—

This section and the three following sections deal with disobedience on the part of public servants in respect of official duty.

This section punishes intentional disobedience of any direction of law on the part of a public servant to save a person from punishment. It is not necessary to show that, in point of fact, the person so intended to be saved had committed an offence, or was

justly liable to legal punishment. A public servant charged under this section is equally liable to be punished, although the intention, which he had of saving any person from legal punishment, was founded upon a mistaken belief as to that person's liability to punishment.³¹⁵

[s 217.1] 'Legal punishment'

does not include departmental punishment.³¹⁶

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] .

315. *Amiruddeen v State*, (1878) 3 Cal 412 , 413. See *Anup Singh v State of HP*, AIR 1995 SC 1941 ; 1995 Cr LJ 3223 (SC) in which conviction under the section upheld by SC

316. *Jungle v State*, (1873) 19 WR (Cr) 40.

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[s 218] Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.

Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

COMMENT.—

This section deals with intentional preparation by a public servant of a false record with the object of saving or injuring any person or property. The correctness of the record is of the highest importance to both the State and the public. The intention with which the public servant does the act mentioned in the section is an essential ingredient of the offence punishable under it.

[s 218.1] Ingredients.—

1. Accused was a public servant;
2. He was entrusted with preparation of any record or writing in his capacity as public servant;
3. He framed the record and writing incorrectly,
4. He did it intentionally,
5. He did so with the intention or knowledge that it will—
 - (i) cause loss or injury to someone,
 - (ii) Save any person from legal punishment and,
 - (iii) Save from property from forfeiture or other charges.^{317.}

In order to sustain the conviction for making an incorrect entry in a record it is not sufficient that the entries are incorrect but it is essential that the entry should have been made with the intention to cause injury.^{318.}

It is not necessary that the incorrect document should be submitted to another person, or otherwise used by the writer.

A public servant commits the offence punishable under this section even if the person whom he intends to save from legal punishment is himself.^{319.}

[s 218.2] Actual commission of offence not necessary.—

The actual guilt or innocence of the alleged offender is immaterial if the accused believes him guilty and intends to screen him.^{320.}

The Supreme Court has held that if a police-officer has made a false entry in his diary and manipulated other records with a view to save the accused from legal punishment that might be inflicted upon him, the mere fact that the accused was subsequently acquitted of the offence cannot make it any the less an offence under this section.^{321.}

[s 218.3] CASES.—

Where the accused increased the marks of particular persons for pecuniary benefits during the course of preparing final record for appointment of physical education teacher, it is held that the offence alleged is clearly made out.^{322.}

[s 218.4] Public servant framing incorrect record to save any person from legal punishment.—

A Superintendent of Police gave a warrant under the Gambling Act, 1867 to D, a Sub-Inspector, to arrest persons found gambling in a certain house. In order to save the persons from the legal punishment for having committed an offence under the Gambling Act, 1867 in that house, D framed a first information and a special diary incorrectly. It was held that he was properly charged with, and found guilty of, having

committed an offence under this section.³²³ A report of the commission of a dacoity was made at a police station. The police-officer in charge of the station took down the report which was made to him, but subsequently destroyed the report and framed another and a false report of the commission of a totally different offence to which he obtained the signature of the complainant, and which he endeavoured to pass off as the original and correct report made to him by the complainant. It was held that the police-officer was guilty of offences punishable under sections 204 and 218.³²⁴ Where it was proved that the accused's intention in making a false report was to stave off the discovery of the previous fraud and save himself or the actual perpetrator of that fraud from legal punishment, it was held that he was guilty of this offence.³²⁵ Under this section, substitution of one leaf by another so as to omit a given entry from the page substituted is penal.³²⁶ Where a Sub-Inspector in his capacity as public servant wrongly prepared certain notes in order to concoct a false defence for himself and his colleagues, he was to be convicted under [section 218, IPC, 1860](#).³²⁷ Where, however, the main offence remains unproved the accused is entitled to have the benefit of doubt in regard to the offence under [section 218, IPC, 1860](#).³²⁸

[s 218.5] Section 218 and section 192—Difference.—

The offence of [section 218 IPC, 1860](#) is not a minor offence included within section 192. There is some resemblance between [sections 192 and 218 IPC, 1860](#), because both deal with the preparation of a false record. There the resemblance ceases. Whereas in section 192 the record is prepared for use in a judicial proceeding with the intention that an erroneous opinion be formed regarding a material point, the offence in section 218 is the preparation of a false record by a public servant with the intention of saving or injuring any person or property.³²⁹

[s 218.6] Bar under [section 195 Cr PC, 1973](#) not applicable, private complaint can be filed.—

Section 218 is a distinct offence which can be proceeded against without the bar of [section 195 of the Code of Criminal Procedure](#). There could be a private complaint in respect of an offence under [section 218 IPC, 1860](#).³³⁰

[s 218.7] Sanction under [section 197 Cr PC, 1973](#).—

Issuing false certificate by the Deputy Civil Surgeon cannot be an official act and as such no sanction under [section 197 of the Code of Criminal Procedure](#) is required.³³¹ But in a particular case³³² the Calcutta High Court took an opposite view and quashed the proceedings under [section 218 IPC, 1860](#) holding that in the absence of sanction, the proceeding cannot be continued.

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] .
317. *Jayanta Mukherjee v State of West Bengal*, 2009 Cr LJ 4178 (Cal).
318. *Raghubansh Lal*, (1957) 1 All 368 : AIR 1957 SC 486 [LNIND 1957 SC 21] : 1957 Cr LJ 595
319. *Nand Kishore v State*, (1897) 19 All 305 , **overruling** *Gauri Shankar*, (1883) 6 All 42 .
320. *Hurdut Surma*, (1967) 8 WR (Cr) 68.
321. *Maulud Ahmad*, (1964) 2 Cr LJ 71 : 1963 Supp (2) SCR 38 .
322. *Rakesh Kumar Chhabra v State of H P*, 2012 Cr LJ 354 (HP).
323. *Deodhar Singh*, (1899) 27 Cal 144 .
324. *Muhammad Shah Khan*, (1898) 20 All 307 .
325. *Girdhari Lal*, (1886) 8 All 633 .
326. *Madan Lal v Inderjit*, AIR 1970 P&H 200 .
327. *Sarju Singh*, 1978 Cr LJ NOC 286 (All).
328. *Natarajan Narayan Kurup*, 1982 Cr LJ NOC 69 (Ker). See also *DV Venkateswara Rao v State of AP*, 1997 Cr LJ 919 (AP).
329. *Kamla Prasad Singh v Hari Nath Singh*, AIR 1968 SC 19 [LNIND 1967 SC 170] : 1967 (3) SCR 828 [LNIND 1967 SC 170] : 1968 Cr LJ 86 .
330. *Kamla Prasad Singh v Hari Nath Singh*, AIR 1968 SC 19 [LNIND 1967 SC 170] : 1967 (3) SCR 828 [LNIND 1967 SC 170] : 1968 Cr LJ 86 .
331. *D V Venkateswara Rao v State of AP*, 1997 Cr LJ 919 ; *Dr Z U Ahmad v State of UP*, 1998 Cr LJ 2100 (All).
332. *Jayanta Mukherjee v State of West Bengal*, 2009 Cr LJ 4178 (Cal).

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[s 219] Public servant in judicial proceeding corruptly making report etc. contrary to law.

Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

COMMENT.—

This section should be read in conjunction with section 77. It contemplates some wilful excess of authority, in other words, a guilty knowledge superadded to an illegal act. This section and the following one deal with corrupt or malicious exercise of the power vested in a public servant for a particular purpose. From the language of [section 219 IPC, 1860](#), it is clear that when any public servant corruptly or maliciously makes or pronounces in any stage of judicial proceeding any report, order, verdict or decision which he knows to be contrary to law, shall be punished.^{333.}

[s 219.1] Case against judicial officers.—

In the present case, there was no allegation that any of the three respondents had passed concerned orders corruptly or maliciously or knowing that they were contrary to law. Merely because the first order passed by the respondent No. 1 was set aside in the revision filed by the petitioner, it cannot be inferred that respondent No. 1 had acted corruptly or maliciously and that too knowing that it was contrary to law.³³⁴.

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] .

333. *Pravin Niwritti Sawant v Hon'ble Shri J B Anandgaonkar Saheb*, 2008 Cr LJ 984 (Bom).

334. *Pravin Niwritti Sawant v Hon'ble Shri J B Anandgaonkar Saheb*, 2008 Cr LJ 984 (Bom).

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[s 220] Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.

Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

COMMENT.—

This section is a further extension of the principle laid down in the preceding section. It is general in its application, whereas the last section applies to judicial officers. In order to bring home the charge under the section it must next be shown that the accused corruptly or maliciously committed such person for trial or to confinement or kept him in confinement in exercise of that authority knowing that in so doing he was acting contrary to law. This analysis of the section by the Supreme Court occurs in a case in which a police constable made the victims to alight from a bus and took them to a nearby street. The Court said that at best it could amount to wrongful restraint but not

to wrongful confinement.³³⁵ Under [section 220 IPC, 1860](#) it is necessary to establish that the officer, who committed any person for trial or to confinement, must have acted corruptly or malicious and knowing that he was doing that act contrary to law.³³⁶

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](#)] .

³³⁵. *Suryamoorthy v Govindaswamy*, [1989 Cr LJ 1451](#) : [AIR 1989 SC 1410](#) [[LNIND 1989 SC 232](#)] at p 1415 : [\(1989\) 3 SCC 24](#) [[LNIND 1989 SC 232](#)] .

³³⁶. *Pravin Niwritti Sawant v Hon'ble Shri J B Anandgaonkar Saheb*, [2008 Cr LJ 984](#) (Bom).