

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 228] Intentional insult or interruption to public servant sitting in judicial proceeding.

Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

STATE AMENDMENT

Andhra Pradesh.— *Offence under section 228 is cognizable. [Vide A.P.G.O. Ms. No. 732, dated 5th December, 1991].*

COMMENT.—

The object of this section is to punish a person who intentionally insults in any way the Court administering justice. It lays down the highest sentence that can be inflicted for contempt of Court. By a notification under [section 10\(1\) of The Criminal Law Amendment Act, 1932](#) the State Government can make an offence under [section 228, IPC, 1860](#), a cognizable offence for a specified area for such time as the notification

remains in force. No Court shall take cognizance of the offence under section 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 sub-ordinate.^{389.}

[s 228.1] Ingredients.—

The essential ingredients of the offence under this section are— (1) intention, (2) insult or interruption to a public servant and (3) the public servant insulted or interrupted must be sitting in any stage of a judicial proceeding.^{390.} The fact that the Court feels insulted is no reason for holding that any insult is intended.^{391.}

The whole sitting of a Court for the disposal of judicial work from the opening to the rising of the Court is a judicial proceeding, and the necessary interval between the conclusion of one case and the opening of another is a stage in a judicial proceeding.^{392.}

Acts, such as rude and contumelious behaviour, obstinacy, perverseness, prevarication, or refusal to answer any lawful question, breach of the peace or any wilful disturbance whatever, will amount to contempt of Court.

If the offence of contempt of Court is summarily dealt with under [section 345 of the Criminal Procedure Code](#), the maximum punishment that can be imposed is fine not exceeding Rs. 200.

The offence under the section is not punishable as contempt of Court. The definition of "criminal contempt" in [section 2\(c\) of The Contempt of Courts Act, 1971](#) includes acts which constitute an offence under [section 228, IPC, 1860](#) and also goes beyond such acts, being wider than section 228.^{393.}

[s 228.2] CASES.—Contempt.—

A person persisting in putting irrelevant and vexatious questions to a witness after warning,^{394.} a person making an impertinent threat to a witness in the box,^{395.} a person sentenced to two hours' imprisonment and ordered to be kept in custody insulting the Judge in the grossest manner;^{396.} a person calling the trial Judge as "a prejudiced judge,"^{397.} a person stating in an application for transfer of a case that the Court had become hostile to him;^{398.} and a person insisting upon staying in the Court room after the presiding officer of the Court had asked him to leave the Court and after he had been warned that action for contempt of Court would be taken against him,^{399.} were all held guilty of contempt of Court under this section. A Commissioner appointed by the Court being a public servant a person who intentionally insults or interrupts him while he is sitting in a judicial proceeding commits an offence under [section 228, IPC, 1860](#), and should be punished under that section and not under [section 345, Cr PC, 1973](#).^{400.} Hurling of shoes by an Advocate at the presiding officer of the Court was contempt. Where the party to a case shouted inside a Court room in offensive language as the presiding officer told that after filing of the rejoinder by the opposite party arguments were closed, summary contempt proceedings under section 480 (now section 345) [Cr PC, 1973](#), read with [section 228, IPC, 1860](#), were fully justified though in view of the written apology tendered then and there the party should not be convicted under [section 228, IPC, 1860](#).^{401.}

[s 228.3] Refusal to answer question.—

Prevarication by a witness and refusal to answer a question amount to intentional interruption within the meaning of the section.^{402.}

[s 228.4] No contempt.—

A person leaving the Court when ordered to remain;^{403.} or making signs from outside to a prisoner on his trial;^{404.} a person listening to evidence after being told to leave the Court;^{405.} a person using vulgar language for the purpose of emphasis;^{406.} a person walking out of the Court without answering the question whether he had any witness;^{407.} a person giving away in marriage a minor girl while she was in the custody of a guardian appointed by the Court;^{408.} a person appearing as an assessor in Court dressed in a shirt and a cap;^{409.} a person writing a letter to a Judge imputing an unlawful act causing loss to him,^{410.} and a pleader saying that he 'resented' the remark of the Court and that another remark was 'improper', and that a certain action of the Court was 'strange',^{411.} were held to have committed no offence under this section.

[s 228.5] Allocation of sitting accommodation in Court room.—

A litigant, conducting his case without the aid of counsel, was occupying the seat in the Court room meant for the advocates while senior advocates were standing. He refused to vacate the seat when asked to do so by the presiding officer. His conviction under section 228 was upheld.^{412.}

[s 228.6] Free legal assistance.—

It was held in *Shrichand v State of MP* that the right to free legal assistance has to be confined to the offences that are punishable with substantive sentence of imprisonment. The right to free legal assistance at the State cost could not be extended to an offence under [section 228, IPC, 1860](#) of which the accused was being tried summarily because on conviction he could not have been visited with any substantive imprisonment.^{413.}

[s 228.7] Insult to Court.—

Several accused persons faced a trial and were found guilty of various offences. One of them, on hearing the judgment, addressed to the Court and uttered filthy abuses and made contemptuous statements. The Court said that it amounted to an insult of the Court. The Court had jurisdiction under the section to punish the accused.^{414.} Where an accused wrote a letter to the Magistrate asking him for the reasons as to why he had returned the petition filed by him and also requested him, to give a copy of the document connected with the case, Magistrate found him to be guilty of offence under [section 228, IPC, 1860](#). But the Madras High Court set aside the judgment by holding that it may not be said that the letter has been received by the judicial officer when he was in any stage of the proceedings in Court and, therefore, the offence under [section 228, IPC, 1860](#) is not be made out.^{415.}

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] .
389. *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] : JT 2009 (12) SC 485 [LNIND 2009 SC 1659] : 2009 (11) Scale 658 [LNIND 2009 SC 1659] .
390. *Revashankar*, AIR 1959 SC 102 [LNIND 1958 SC 110] : (1958) Cr LJ 251 .
391. *Pranlal*, 1966 Cr LJ 1087 .
392. *Salig Ram v State*, (1898) PR No. 16 of 1897.
393. *Daroga Singh v BK Pandey*, (2004) 5 SCC 26 [LNIND 2004 SC 485] : 2004 Cr LJ 2084 : AIR 2004 SC 2579 [LNIND 2004 SC 485] .
394. *Azeemoola*, (1867) PR No. 44 of 1867.
395. *Allu*, (1922) 45 All 272 .
396. *Venkatasami*, (1891) 15 Mad 131.
397. *Venkatrao v State*, (1922) 24 Bom LR 386 [LNIND 1922 BOM 43] , 46 Bom 973.
398. *Narotam Das*, (1943) All 186 .
399. *Rameshwar*, 1960 Cr LJ 976 .
400. *CK Nanavati*, 1978 Cr LJ 1040 (Guj).
401. *State of UP v Pateswari Prasad*, 1980 Cr LJ NOC 1 (All).
402. *Jaimal Shravan*, (1873) 10 BHC 69; *Gopi Chand*, (1917) PR No. 14 of 1918.
403. (1870) 1 Weir 215.
404. (1870) 1 Weir 214.
405. *Papa Naiken*, (1882) 1 Weir 217.
406. (1880) 1 Weir 216.
407. *Abdul Rahiman*, (1899) 1 Weir 218.
408. *Kaulashia*, (1932) 12 Pat 1, the offence committed was disobedience of a lawful order.
409. *Chhaganlal Ishwardas*, (1933) 35 Bom LR 1025 .
410. *Subordinate Judge, Hoshangabad v Jawaharlal*, (1941) Nag 304.
411. *Hakumat Rai*, (1942) 24 Lah 791.
412. *Omana v State of Kerala*, 1994 Cr LJ 687 (Ker). Another **similar ruling** is *PC Jose v Nandakumar*, AIR 1997 Ker 243 [LNIND 1993 KER 251] .
413. 1993 Cr LJ 495 (MP).
414. *Ram Vishal Re*, 1997 Cr LJ 3736 (MP).
415. *C R Rajasekaran, v Judicial Magistrate, Nagapattinam*, 2003 Cr LJ 4024 (Mad).

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416.[s 228A]– Disclosure of identity of the victim of certain offences, etc.

- (1) **Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an ^{417.}[offence under section 376, ^{418.} [section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB] or section 376E] is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.**
- (2) **Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the identity of the victim if such printing or publication is—**
 - (a) **by or under the order in writing of the officer-in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or**
 - (b) **by, or with the authorisation in writing of, the victim; or**
 - (c) **where the victim is dead or minor or of unsound mind, by, or with the authorisation in writing of, the next of kin of the victim:**

***Provided* that no such authorisation shall be given by the next of kin to anybody other than the chairman or the secretary, by whatever name called, of any recognised welfare institution or organisation.**

Explanation.—For the purposes of this sub-section, "recognised welfare institution or organisation" means a social welfare institution or organisation recognised in this behalf by the Central or State Government.

- (3) **Whoever prints or publishes any matter in relation to any proceeding before a court with respect to an offence referred to in sub-section (1) without the previous permission of such Court shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.**

Explanation.—The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.

COMMENT.—

This section has been introduced by The [Criminal Law Amendment Act, 1983, section 2](#) (43 of 1983) to prevent social victimisation or ostracism of the victim of a sexual offence.

[s 228A.1] Exemption from prosecution.—

A complaint was filed against the accused (petitioners) for the alleged disclosure of identity of the victim of a rape in their newspaper. The reply notice showed that the publication was made at the instance of a recognised welfare association. It was held that the petitioners were exempt from prosecution.⁴¹⁹ Publishing the photographs of rape victims in newspapers, journals and magazines would certainly fall under the category of making disclosure of identity of victim and such act would fall under [section 228-A of IPC, 1860](#).⁴²⁰

[s 228A.2] Judgments.—

[Section 228A IPC, 1860](#) makes disclosure of identity of victim of certain offences punishable. Printing or publishing name of any matter which may make known the identity of any person against whom an offence under sections 376, 376A, 376B, 376C or 376D is alleged or found to have been committed can be punished. Keeping in view the social object of preventing social victimisation or ostracism of the victim of a sexual offence for which section 228A has been enacted, it would be appropriate that in the judgments, be it of the Supreme Court, High Court or lower Court, the name of the victim should not be indicated.⁴²¹

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] .
416. Ins. by Act 43 of 1983, section 2 (w.e.f. 25 December 1983).
417. Subs. by the [Criminal Law \(Amendment\) Act, 2013](#) (13 of 2013), section 4 (w.e.f. 3 February 2013) for "offence under section 376, section 376A, section 376B, section 376C or section 376D".
418. Subs. by Act 22 of 2018, section 3, for "section 376A, section 376B, section 376C, section 376D" (w.r.e.f. 21 April 2018).
419. *R Lakshmipathi v Ramalingam*, 1998 Cr LJ 3683 (Mad).
420. *National Federation of Indian Women v Government of Tamil Nadu*, 2007 Cr LJ 3385 (Mad).
421. *S Ramakrishna v State*, (2009) 1 SCC 133 [LNIND 2008 SC 2066] : (2009) 1 SCC Cri 487 : AIR 2009 SC 885 [LNIND 2008 SC 2066] . See also *Om Prakash v State of UP*, 2006 Cr LJ 2913 : AIR 2006 SC 2214 [LNIND 2006 SC 382] : (2006) 9 SCC 787 [LNIND 2006 SC 382] , it would be appropriate that the name of victim of rape should not be disclosed be it a judgment of the Supreme Court, High Court or lower court. This is necessary to prevent victimisation or ostracism of the victim. To the **same effect** is *Dinesh v State of Rajasthan*, 2006 Cr LJ 1679 (SC), *Bhupinder Sharma v State of HP*, (2003) 8 SCC 551 . *State of Karnataka v Puttaraja*, (2004 (1) SCC 475) [LNIND 2003 SC 1033] .

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[s 229] Personation of a Juror or Assessor.

Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a jurymen or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, 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 was intended to punish personation of a juror or an assessor. It has now become obsolete with the abolition of assessor or jury system of trial.

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] .

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422. [s 229-A] Failure by person released on bail or bond to appear in Court.

[Whoever, having been charged with an offence and released on bail or on bond without sureties, fails without sufficient cause (the burden of proving which shall lie upon him), to appear in Court in accordance with the terms of the bail or bond, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

Explanation.—The punishment under this section is—

- (a) in addition to the punishment to which the offender would be liable on a conviction for the offence with which he has been charged; and
- (b) without prejudice to the power of the Court to order forfeiture of the bond].

COMMENT.—

Cr PC, 1973 (Amendment) Act 2005—clause 44.—This clause amends the [IPC, 1860](#) as follows, namely:—