

## THE INDIAN PENAL CODE

### CHAPTER X OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

This Chapter contains penal provisions intended to enforce obedience to the lawful authority of public servants. Contempt of the lawful authority of Courts of Justice, of Officers of Revenue, Officers of Police, and other public servants are punishable under this head.

#### [s 179] Refusing to answer public servant authorised to question.

**Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, 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.**

#### COMMENT.—

**Refusing to answer questions.**—The offence under this section consists in the refusal to answer a question which is relevant to the subject concerning which the public servant is authorised to inquire, or which at least touches that subject. Under sections 121–132 of the [Indian Evidence Act](#) a witness is exempted from answering certain questions. If a person gives false answers, then he will be guilty under section 193 and not under this section.

Refusing to answer the question of a police-officer investigating a case under [section 161 of the Criminal Procedure Code](#) is not an offence under this section.<sup>52</sup> This section also applies to the accused as the words used in [section 161\(1\) Cr PC, 1973](#), are "any person acquainted with facts and circumstances of the case". Thus, the accused too is bound to answer a question put by a police-officer in course of his examination. However, the answer to a question has a tendency to incriminate him; he can claim protection under [Article 20\(3\) of the Constitution](#) and refuse to answer. Of course, it is a matter which has to be ultimately decided by the Court.<sup>53</sup>

The matter is entirely different so far the officers of the Railway Protection Force are concerned first, they are not police-officers<sup>54</sup>. and second, the enquiry conducted by them under [sections 8 and 9 of the Railway Property \(Unlawful Possession\) Act, 1966](#) is not a police investigation but should be deemed to be a judicial proceeding.<sup>55</sup> Section 9 of this special Act specifically lays down that during such enquiry by an RPF officer, persons summoned have to obey summons and state the truth and, therefore, by refusing to answer, such persons would make themselves liable under [section 179, IPC, 1860](#). The question of invoking [Article 20\(3\) of the Constitution](#) does not arise in such a case, as till the complaint is filed under section 190(1)(a), [Cr PC, 1973](#) by the RPF officer, a person cannot be regarded as "accused of an offence" within the meaning of [Article 20\(3\) of the Constitution](#).<sup>56</sup>

52. *Mawzanagyi*, (1930) 8 Ran 511.
53. *Nandini Satpathy v PL Dani*, 1978 Cr LJ 968 : AIR 1978 SC 1025 .
54. *State of MP v Chandan Singh*, 1980 Cr LJ 1024 (MP); *R Muthu v Asst. SI, RPF*, 1983 Cr LJ 1309 (Mad); *State of UP v Durga Prasad*, 1974 Cr LJ 1465 : AIR 1974 SC 2136 [LNIND 1974 SC 248] .
55. *Durga Prasad, Supra*; *BC Saxena*, 1983 Cr LJ 1432 (AP).
56. *BC Saxena, Supra*; *Mohd. Dastgir*, 1960 Cr LJ 1159 : AIR 1960 SC 758 .

## THE INDIAN PENAL CODE

### CHAPTER X OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

This Chapter contains penal provisions intended to enforce obedience to the lawful authority of public servants. Contempt of the lawful authority of Courts of Justice, of Officers of Revenue, Officers of Police, and other public servants are punishable under this head.

#### [s 180] Refusing to sign statement.

**Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.**

#### COMMENT—

The essential ingredients to constitute the offence under this Section are:—

- (i) The accused made a statement before a public servant.
- (ii) The accused was required by public servant to sign such statement.
- (iii) Public servant was legally empowered or competent to require the accused to sign that statement, and
- (iv) That the accused refused to sign statement.<sup>57.</sup>

#### [s 180.1] Refusal to sign.—

The statement must be such a one as the accused can be legally required to sign, e.g., a statement recorded under the provisions of sections 164 and 281(5) of the [Cr PC, 1973](#) or a statement under [sections 8 and 9 of the Railway Property \(Unlawful Possession\) Act, 1966](#).<sup>58.</sup> To attract the offence under [section 180 of IPC, 1860](#), the person accused of such offence should be under a legal obligation or compulsion to sign the statement or submissions.<sup>59.</sup>

<sup>57.</sup> *Basavaraj Shivarudrappa Sirsi v State of Karnataka*, [2011 Cr LJ 4809](#) (Kar).

<sup>58.</sup> *Durga Prasad, and BC Saxena, Supra*.

<sup>59.</sup> *Basavaraj Shivarudrappa Sirsi v State of Karnataka* [2011 Cr LJ 4809](#) (Kar).



## THE INDIAN PENAL CODE

### CHAPTER X OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

This Chapter contains penal provisions intended to enforce obedience to the lawful authority of public servants. Contempt of the lawful authority of Courts of Justice, of Officers of Revenue, Officers of Police, and other public servants are punishable under this head.

#### **[s 181] False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation.**

Whoever, being legally bound by an oath <sup>60</sup>[or affirmation] to state the truth on any subject to any public servant or other person authorized by law to administer such oath <sup>61</sup>[or affirmation], makes, to such public servant or other person as aforesaid, touching the subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

#### **COMMENT.—**

**False statement on oath.**—This section should be compared with section 191. Under it a false statement to any public servant, or other person, authorised to administer oath or affirmation, is punishable. <sup>62</sup> It does not apply where the public servant administers the oath in a case wholly beyond his jurisdiction <sup>63</sup> or where he is not competent to make a statement on solemn affirmation. <sup>64</sup>

#### **[s 181.1] Failure to administer oath.—**

In view of [sections 4 and 5](#) of the [Oaths Act, 1969](#), it is always desirable to administer oath or statement may be recorded on affirmation of the witness. The Supreme Court in *Rameshwar v State of Rajasthan*, <sup>65</sup> has categorically held that the main purpose of administering of oath is to render persons who give false evidence, liable to prosecution and further to bring home to the witness the solemnity of the occasion and to impress upon him the duty of speaking the truth, further such matters only touch credibility and not admissibility. However, in view of the provisions of [section 7 of the Oaths Act, 1969](#), the omission of administration of oath or affirmation does not invalidate any evidence. <sup>66</sup>

<sup>60</sup>. Ins. by Act 10 of 1873, section 15.

61. Ins. by Act 10 of 1873, section 15.
62. *Niaz Ali*, (1882) 5 All 17 .
63. *Andy Chetty*, (1865) 2 MHC 438 .
64. *Subba*, (1883) 6 Mad 252.
65. *Rameshwar v State of Rajasthan*, AIR 1952 SC 54 [LNIND 1951 SC 76] .
66. *State of Rajasthan v Darshan Singh*, (2012) 5 SCC 789 [LNIND 2012 SC 334] : 2012 AIR (SCW) 3036 : 2012 Cr LJ 2908 : 2012 (5) Scale 570 [LNIND 2012 SC 334] .

## THE INDIAN PENAL CODE

### CHAPTER X OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

This Chapter contains penal provisions intended to enforce obedience to the lawful authority of public servants. Contempt of the lawful authority of Courts of Justice, of Officers of Revenue, Officers of Police, and other public servants are punishable under this head.

**67. [[s 182] False information, with intent to cause public servant to use his lawful power to the injury of another person.**

**Whoever gives to any public servant any information <sup>1</sup> which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—**

- (a) to do or omit anything<sup>2</sup> which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or**
- (b) to use the lawful power of such public servant to the injury or annoyance of any person,**

**shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]**

#### ILLUSTRATIONS

- (a) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.
- (b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.
- (c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villages or some of them. A has committed an offence under this section.]

**Object.**—The object of this section is that a public servant should not be falsely given information with the intent that he should be misled by a person who believed that information to be false, and intended to mislead him. This section does not require that action must always be taken if the person who makes the public servant knows or believes that action will be taken.<sup>68</sup>

**[s 182.1] Ingredients.—**

- (1) Giving of an information to a public servant.
- (2) Information must have been known or believed to be false by the giver.
- (3) Such false information was given with intention to cause, or knowing that it is likely to cause such public servant (a) to do or omit anything which he ought not to do or omit to do if the true facts were known to him, or (b) to use his lawful power to the injury or annoyance of any person.<sup>69</sup>

**1. 'Any information'.—**The Bombay and the Patna High Courts have ruled that any 'false information' given to a public servant, with the intent mentioned in the section, is punishable under it whether that information is volunteered by the informant or is given in answer to questions put to him by the public servant.<sup>70</sup> Where a driver of a motor vehicle, who had no licence with him, on being asked his name by a police-officer, gave a fictitious name, it was held that he had committed an offence under this section.<sup>71</sup>

The section makes no distinction between information relating to a cognizable offence and one relating to a non-cognizable offence, nor is there anything in the section to justify the conclusion that it applies only to cases in which the information given to any public servant relates to a cognizable offence.<sup>72</sup>

**2. 'To do or omit anything'.—**It is not necessary that the public servant to whom false information is given should be induced to do anything or to omit to do anything in consequence of such information. The gist of the offence is not what action may or may not be taken by the public servant to whom false information is given, but the intention or knowledge (to be inferred from his conduct) of the person supplying such information.<sup>73</sup> Section 182 does not require that action must always be taken if the person who moves the public servant knows or believes that action would be taken.<sup>74</sup> Under this clause it is not necessary to show that the act done would be to the injury or annoyance of any third person.<sup>75</sup>

**[s 182.2] Condition precedent for prosecution.—**

This section has to be read in conjunction with [section 195\(1\)\(a\) of the Cr PC, 1973](#) which requires a complaint for offences under sections 172–188, [IPC, 1860](#), to be filed by the public servant concerned or by some other public servant to whom he is administratively subordinate.<sup>76</sup> It is mandatory to follow the procedure prescribed under section 195 of the Code while initiating action against an accused for an offence punishable under [section 182, IPC, 1860](#) else such action is rendered void *ab initio*.<sup>77</sup> Thus, investigation into an offence under [section 182, IPC, 1860](#) can be done only on the complaint given by a competent public servant; taking note of the fact that the procedure contemplated is not complied within the line with [section 195, Cr PC, 1973](#) as well as the settled legal position evolved through the decisions of the Apex Court, the cognizance assumed by the Magistrate for the offence under [section 182, IPC, 1860](#) is erroneous and not sustainable in law.<sup>78</sup> Similar view has been expressed by



the Hon'ble Supreme Court in *PD Lakhani v State of Punjab*,<sup>79</sup> relying upon its earlier judgment in *Daulat Ram's case (supra)* and *Mata Bhikh's case*.<sup>80</sup> It is held that:

no complaint, therefore, could be lodged before the learned Magistrate by the Station House Officer. Even assuming that the same was done under the directions of SP, Section 195, in no uncertain terms, directs filing of an appropriate complaint petition only by the public servant concerned or his superior officer. It, therefore, cannot be done by an inferior officer. It does not provide for delegation of the function of the public servant concerned<sup>81</sup>.

### **[s 182.3] Private Complaint.—**

Since the offence under section 182 is covered by the bar of [section 195 Cr PC, 1973](#) there is absolutely no scope for filing a private complaint. The embargo in [section 195 Cr PC, 1973](#) takes away the right to prosecute in respect of the aforesaid offences by way of filing a private complaint. Going by [section 195 Cr PC, 1973](#) no Court shall take cognizance except in the manner contemplated by [section 195 Cr PC, 1973](#) and consequently, no jurisdiction to refer the case under [section 156\(3\) Cr PC, 1973](#) to the Police for investigation or to issue a direction to proceed under the aforesaid sections to the Police on a private person's complaint.<sup>82</sup>

### **[s 182.4] Mala fide Prosecution.—**

The Supreme Court has laid down that proceedings can be taken under this section as well as under sections 211 and 500 against persons who initiate prosecution against a person in high position with a view to wreaking vengeance for a private and personal grudge.<sup>83</sup>

### **[s 182.5] CASES.—Causing public servant to do what he ought not to do.—**

Mere non-mentioning of the complaint already filed in the Court of Chief Judicial Magistrate, in the petition filed under [section 156\(3\) Cr PC, 1973](#) before the Special Sessions Judge, would not be enough to attract the section.<sup>84</sup> The accused falsely telegraphed to a District Magistrate that the town had been attacked by a gang of 200 robbers, but the Magistrate put no faith in the telegram and took no action; it was held that the accused were guilty of an offence under this section.<sup>85</sup> A personated B at an examination and passed the examination and obtained a certificate in B's name. B, thereupon, applied to have his name entered in the list of candidates for Government service. He attached to this application the certificate issued in his name, and his name was ordered to be entered on the list of candidates. It was held that he was guilty of an offence under this section.<sup>86</sup> Where the ulterior motive of the accused in making a false report of burglary was to suppress certain documents by pleading that they were stolen, it was held that the act of the accused was not punishable under this section.<sup>87</sup> Where a resolution was passed in a public meeting condemning police inaction in regard to an assault case and copies of the said resolution were sent to various authorities including the Superintendent of Police and the officer-in-charge, but the officer-in-charge took exception to it and filed a complaint in Court under [sections 182 and 211, IPC, 1860](#), it was held that forwarding of the resolution did not amount to institution of criminal proceeding and no offence either under [section 182](#) or [section 211, IPC, 1860](#), was committed. It was further observed that police should not be so sensitive over public criticism.<sup>88</sup>

## [s 182.6] Period of Limitation.—

Since the offence under [section 182 IPC, 1860](#) is punishable with imprisonment for a period of six months only, the authority should file the complaint under [section 182 IPC, 1860](#) within one year from the date when that authority found that the allegations made in the complaint were false. Since more than four years was elapsed from the date when the authority found the allegations were false, no question of filing any complaint under [section 182 IPC, 1860](#) at this belated stage arises.<sup>89.</sup>

67. Subs. by Act 3 of 1895, section 1, for section 182.
68. *Daulat Ram*, [AIR 1962 SC 1206](#) [[LNIND 1962 SC 28](#)] : [1962 \(2\) Cr LJ 286](#) .
69. *Jiji Joseph v Tomy Ignatius*, [2013 Cr LJ 828](#) (Ker).
70. *Ramji Sajabarao*, (1885) 10 Bom 124; *Lachman Singh*, (1928) 7 Pat 715.
71. *Lachman Singh*, (1928) 7 Pat 715.
72. *Thakuri*, (1940) 16 Luck 55 .
73. *Budh Sen v State*, (1891) 13 All 351 ; *Raghu Tiwari*, (1893) 15 All 336 .
74. *Sham Lal Thukral v State of Punjab*, [2009 Cr LJ 189](#) (PH) **relying** on [AIR 1962 SC1206](#) [[LNIND 1962 SC 28](#)] : (1962 (2) Cr LJ 286) .
75. *Ganesh Khanderao*, (1889) 13 Bom 506.
76. *Daulat Ram*, 1962 (2) Cr LJ 286 : [AIR 1962 SC 1206](#) [[LNIND 1962 SC 28](#)] ; *TS Venkateswaran*, [1982 Cr LJ NOC 68](#) (Ker); See also *State of Rajasthan v Chaturbhuj*, [1983 Cr LJ NOC 56](#) (Raj).
77. *Saloni Arora v State of NCT of Delhi*, [AIR 2017 SC 391](#) [[LNIND 2017 SC 23](#)] .
78. *EK Palanisamy v DySP*, [2010 Cr LJ 1802](#) (Mad); *Geetika Batra v OP Batra*, [2009 Cr LJ 2687](#) (Del).
79. *PD Lakhani v State of Punjab*, 2008 AIR SCW 3357.
80. *Mata Bhikh's case*, (1994) 4 SCC 95 [[LNIND 1994 SC 311](#)] : (1994 AIR SCW 1935).
81. Also see *Sham Lal Thukral v State of Punjab*, [2009 Cr LJ 189](#) (PH); *Randhir v State of Haryana*, [2004 Cr LJ 479](#) (PH).
82. *Loid Jude Manakkat v State*, [2013 \(2\) KLT 931](#) : [2013 \(3\) KLJ 53](#) .
83. *State of Haryana v Bhajan Lal*, 1992 Supp (1) SCC 335 : [AIR 1992 SC 604](#) : [1992 Cr LJ 527](#) .
84. *Subhash Chandra v State of UP*, (2000) 9 SCC 356 [[LNIND 1999 SC 1565](#)] : [JT 2000 \(2\) SC 26](#) : 2000 AIR(SCW) 4947.
85. *Budh Sen*, *supra*.
86. *Ganesh Khanderao*, *supra*.
87. *Shambhoo Nath*, [AIR 1959 All 545](#) [[LNIND 1958 ALL 203](#)] .
88. *Shiv Kumar Prasad Singh*, [1984 Cr LJ 1417](#) (Pat).
89. *Harbhajan Singh Bajwa v Senior Superintendent of Police, Patiala*, [2000 Cr LJ 3297](#) (PH).