

THE INDIAN PENAL CODE

¹[CHAPTER IX-A OF OFFENCES RELATING TO ELECTIONS

[s 171G] False statement in connection with an election.

Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

COMMENT.—

False statements in elections.—False statements of fact in relation to the personal character or conduct of a candidate are penalised by this section. General imputations of misconduct unaccompanied by any charges of particular acts of misconduct cannot properly be described as statements of fact within the meaning of this section.²³

An offence under this section is not a species of the more general offence of defamation. There may be cases under this section which do not fall under section 499 and vice versa.²⁴

¹. Chapter IXA (containing of sections 171A to 171-I) ins. by Act 39 of 1920, section 2.

²³. *AS Radhakrishna Ayyar v Emperor*, [AIR 1932 Mad 511](#) : 1932 Mad WN 1086.

²⁴. *Bhagolelal Kwalchand Darji v Emperor*, [AIR 1940 Nag 249](#) : [1942] ILR Nag 208.

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¹[CHAPTER IX-A OF OFFENCES RELATING TO ELECTIONS

[s 171H] Illegal payments in connection with an election.

Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

COMMENT.—

Illegal payments in elections.—This section makes it illegal for any one, unless authorized by a candidate, to incur any expenses in connection with the promotion of the candidate's election.

¹. Chapter IXA (containing of sections 171A to 171-I) ins. by Act 39 of 1920, section 2.

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¹[CHAPTER IX-A OF OFFENCES RELATING TO ELECTIONS

[s 171-I] Failure to keep election accounts.

Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.]

COMMENT.—

Failure to keep accounts.—This section punishes failure to keep accounts of expenses incurred in connection with an election, if such accounts are required to be kept by any law or rule having the force of law.

¹. Chapter IXA (containing of sections 171A to 171-I) ins. by Act 39 of 1920, section 2.

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 172] Absconding to avoid service of summons or other proceeding.

Whoever absconds¹ in order to avoid being served with a summons, notice or order,² proceeding from any public servant, legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons or notice or order is to attend in person or by agent, or to ^{1.} [produce a document or an electronic record in a Court of Justice], 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.—

Absconding to avoid summons.—Absconding to avoid service of summons or other proceeding is similar to non-attendance in obedience to an order from a public servant. The object of this section is to punish an offender for the contempt his conduct indicates of the authority whose process he disregards.

The second clause applies where the summons or notice or order is (1) for attendance in Court; or (2) for production of a document.

1. 'Absconds'.—This term is not to be understood as implying necessarily that a person leaves the place in which he is. Its etymological and ordinary sense is to hide oneself; and it matters not whether a person departs from a place or remains in it, if he conceals himself. If a person, having concealed himself before process issues, continues to do so after it is issued, he absconds.^{2.}

2. 'Summons, notice or order'.—The summons, notice or order referred to, should be addressed to the same person whose attendance is required and who absconds to avoid being served with such a 'summons, notice or order'. A warrant is not an order served on an accused; it is simply an order to the police to arrest him.^{3.} It is not an offence under this section to abscond to avoid arrest under a warrant.^{4.}

[s 172.1] Bar to take Cognizance:

As per section 195(1)(a)(i) of the [Code of Criminal Procedure 1973](#), ([Cr PC, 1973](#)) No court shall take cognizance of any offence punishable under S. 172 to 188 (both inclusive) of the [Indian Penal Code](#) (45 of 1860, except on the complaint in writing of 'the public servant concerned' or of some other public servant to whom he is

administratively subordinate. When the Court in its discretion is disinclined to prosecute the wrongdoers, no private complainant can be allowed to initiate any criminal proceeding in his individual capacity as it would be clear from the reading of the section itself which is to the effect that no Court can take cognizance of any offence punishable under sections 172–188 of the [Indian Penal Code \(IPC, 1860\)](#) except on the written complaint of 'the public servant concerned' or of some other public servant to whom he is administratively subordinate.⁵

1. Subs. by Act 21 of 2000, section 91 and Sch. I, for "to produce a document in a Court of Justice" (w.e.f. 17-10-2000).
2. *Srinivasa Ayyangar*, (1881) 4 Mad 393, 397.
3. *Lakshmi*, (1881) Unrep. Cr C 152.
4. *Annawadin*, (1923) 1 Ran 218.
5. *State of UP v Mata Bhikh*, (1994) 4 SCC 95 [LNIND 1994 SC 311] : JT 1994 (2) SC 565 [LNIND 1994 SC 311] : (1994) 2 Scale 235 : (1994) 1 SCC (Cr) 831 : 1994 (2) SCR 368 [LNIND 1994 SC 311] .

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[s 173] Preventing service of summons or other proceeding, or preventing publication thereof.

Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order,

or intentionally prevents the lawful affixing to any place of any such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or ⁶[to produce a document or electronic record in a Court of Justice], 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.—

Preventing service of summons.—This section punishes intentional prevention of the service of summons, notice or order.

A refusal to sign a summons,⁷ a refusal to receive a summons⁸ and the throwing down of a summons after service,⁹ do not constitute the offence of intentionally preventing the service of a summons under this section. Under the [Cr PC, 1973](#) the mere tender of a summons is sufficient and a refusal by a person to receive it does not expose him to the penalty of this section. Actual delivery is not necessary to complete the service.¹⁰ Chapter X, sections 172–190 of the [IPC, 1860](#) deal with the offences constituting "Contempts of the Lawful authority of Public Servants". A Magistrate could be covered by the definition of a 'Public Servant' given by [section 21 of the IPC, 1860](#). But the sections given in Chapter X of the [IPC, 1860](#) relate to particular kinds of contempt of the lawful authority of Public Servants and none of these cover the kind of

acts which were committed by the accused with the object of the stifling a prosecution.¹¹.

6. Subs. by Act 21 of 2000, section 91 and Sch. I, for "to produce a document in a Court of Justice" (w.e.f. 17-10-2000).

7. *Kalya Fakir*, (1868) 5 BHC (Cr C) 34; *Krishna Gobinda Das*, (1892) 20 Cal 358 .

8. *Punamatai*, (1882) 5 Mad 199.

9. *Arumuga Nadan*, (1882) 5 Mad 200 (n), 1 Weir 79.

10. *Sahdeo Rai*, (1918) 40 All 577 .

11. *Waryam Singh v Sadhu Singh*, AIR 1972 SC 905 : (1972) 1 SCC 796 : 1972 Cr LJ 635 : (1972) 1 SCC (Cr) 477; *TN Godavarman Thirumulpad* (89) v UOI. (2006) 10 SCC 486 : (2007) 9 Scale 272 .

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[s 174] Non-attendance in obedience to an order from public servant.

Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, 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.

ILLUSTRATIONS

- (a) A, being legally bound to appear before the ^{12.}[High Court] at Calcutta, in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.
- (b) A, being legally bound to appear before a ^{13.}[District Judge] as a witness, in obedience to a summons issued by that ^{14.}[District Judge], intentionally omits to appear. A has committed the offence defined in this section.

COMMENT.—

Non-attendance.—The offence contemplated by this section is an intentional omission to appear—

- (1) at a particular specified^{15.} place in India,^{16.}
- (2) at a particular time,
- (3) before a specified public functionary,
- (4) in obedience to a summons, notice or order (written or verbal),^{17.} not defective in form,^{18.} and

(5) issued by an officer having jurisdiction¹⁹ in the matter.

A conviction cannot be had unless the person summoned

(1) was legally bound to attend, and

(2) refused or intentionally omitted to attend.²⁰

[s 174.1] CASES.—Wilful departure before, lawful time.—

Where a man in obedience to a summons attended a Magistrate's Court at 10 a.m., but finding the Magistrate not present at the time mentioned in the summons, departed without waiting for a reasonable time, it was held that he was guilty of an offence under this section.²¹

[s 174.2] Public servant absent.—

Where a public servant was absent on a date fixed in the summons, the person summoned could not be convicted, though he purposely failed to attend.²²

[s 174.3] Police Notice.—

If the accused were not within the jurisdiction of the police station or adjoining police station while being served with an order under [section 160, Cr PC, 1973](#), they were not legally bound to attend before the requisitioning police-officer and as such on their failure to attend, their conviction under [section 174, IPC, 1860](#), could not be maintained.²³

[s 174.4] Notice by Railway Protection Force.—

Enquiry conducted by an officer of the Railway Protection Force being in the nature of a judicial proceeding under [section 9 of the Railway Property \(Unlawful Possession\) Act, 1966](#), any person summoned by such officer to produce any document or give evidence, shall be bound to produce such document and to state the truth in course of his examination. Failure to do so or furnishing of false documents, etc., will entail prosecution under [sections 174, 175, 179, 180 and 193, IPC, 1860](#), as the case may be.²⁴

12. Subs. by the A.O. 1950, for "Supreme Court".

13. Subs. by the A.O. 1950, for "Supreme Court".

14. Subs. by the A.O. 1950, for "Zila Judge".

15. *Ram Saran*, (1882) 5 All 7.

16. *Paranga v State*, (1893) 16 Mad 463.
17. *Guman*, (1873) Unrep. Cr C 75 : (1870) 5 MHC (Appx) 15.
18. *Krishtappa*, (1896) 20 Mad 31.
19. *Venkaji Bhaskar*, (1871) 8 BHC (Cr C) 19 : (1865) 1 Weir 87.
20. *Sreenath Ghose*, (1868) 10 WR (Cr) 33.
21. *Kisan Bapu*, (1885) 10 Bom 93.
22. *Krishtappa*, sup.
23. *Krishan*, [1975 Cr LJ 620](#) (HP).
24. *BC Saxena*, [1983 Cr LJ 1432](#) (AP).