

purpose of preventing the existence of the document coming to the knowledge of anybody, but also when the existence of the document is known to others.<sup>202.</sup>

The offence under this section is an aggravated form of the offence punishable under section 175. The section applies whether the proceeding is of a civil or criminal nature.

**[s 204.1] CASES.—Secreting document.—**

Where the plaintiff in a suit referred to arbitration by consent, with a view to prevent a witness from referring to an endorsement on a bond, snatched up the bond which was lying beside the arbitrator, ran away, and refused to produce it, it was held that he had committed this offence.<sup>203.</sup>

**[s 204.2] Destroying document.—**

Where a police-officer took down at first the report of the commission of a dacoity made to him, but subsequently destroyed that report and framed another and a false report of the commission of a totally different offence, he was held guilty of this offence.<sup>204.</sup>

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] .

200. Subs. by The [Information Technology Act, 2000](#) (Act 21 of 2000), section 91 and First Sch, w.e.f. 17 October 2000, for the word "document". The words "electronic record" have been defined in section 29A.

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202. *Susenbihari Ray*, (1930) 58 Cal 1051 (SB).

203. *Subramania Ghanapati*, (1881) 3 Mad 261.

204. *Muhammad Shah Khan*, (1898) 20 All 307 . See also *Jagdish v State of Rajasthan*, 2002 Cr LJ 2171 .

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#### **[s 205] False personation for purpose of act or proceeding in suit or prosecution.**

**Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment,<sup>1</sup> or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.**

#### **COMMENT.—**

The offence punishable under this section is not merely cheating by using a fictitious name, but by falsely assuming to be some other real person and in that character making an admission, confessing judgment, or causing any process to be issued, etc.

Any fraudulent gain or a benefit to the offender is not an essential element of this offence.<sup>205</sup> Where A personated B at a trial with B's consent, which was given to save himself from the trouble of making an appearance in person before a Magistrate, it was held that A was guilty of an offence under this section, and B was guilty of abetment of

the offence.<sup>206</sup> Act of impersonating another for purpose of giving evidence in Court falls under [section 205 IPC, 1860](#). [Section 205, IPC, 1860](#) is squarely covered under section 195(b)(i) of the [Code of Criminal Procedure](#) and cognizance could be taken only by a Court on the complaint in writing of that Court in which such offence was committed.<sup>207</sup>

**1. 'Confesses judgment'.—**Allows a decree to be passed against himself.

### **[s 205.1] Personation of imaginary person.—**

There is a conflict of opinion on the point whether a person commits an offence under this section by personating a purely imaginary person. The Calcutta High Court has held that a person by such personation commits an offence under this section.<sup>208</sup> The Madras High Court, dissenting from the above ruling, has held that it is not enough to show the assumption of a fictitious name; it must also appear that the assumed name was used as a means of falsely representing some other individual.<sup>209</sup>

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] .

205. *Suppakon*, (1863) 3 MHC 450 ; *Kalya*, (1903) 5 Bom LR 138 .

206. *Suppakon*, *supra*.

207. *Jawahar Yadav v State of Chhattisgarh*, 2006 Cr LJ 2078 (Chh).

208. *Bhitto Kahar*, (1862) 1 Ind Jur OS 128. See also *K M Chitharanjan v P M Kunhunni*, 2005 Cr LJ 4434 (Ker).

209. *Kadar Ravuttan*, (1868) 4 MHC 18 . By virtue of the provision in [section 195 Cr PC, 1973](#), cognizance of an offence under this section is barred except on a complaint by the court where the offence is committed. *Sardul Singh v State of Haryana*, 1992 Cr LJ 354 (P&H).

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#### **[s 206] Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.**

**Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.**

#### **COMMENT.—**

The concealment or removal of property contemplated in this section must be to prevent the property from being taken. Where the property is already taken and the removal is subsequent, the offence under this section is not committed.<sup>210.</sup> The word 'taken' has been used in the sense of 'seized' or 'taken possession of'.<sup>211.</sup> Where the

removal was open and without any element of secrecy or deception, it was held that the removal was not "fraudulent removal" and hence this section could not apply.<sup>212.</sup>

A creditor commits no fraud who anticipates other creditors and obtains a discharge of his debt by the assignment of any property which has not already been attached by another creditor.<sup>213.</sup>

Sections 206, 207 and 208 have the effect of rendering criminal all collusive modes by which creditors, or lawful claimants may be defeated of their just remedies. Sections 421–424 deal with fraudulent transfers.

Under this and the next section a civil suit must be actually pending before a Court, and not merely intended to be filed.<sup>214.</sup>

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] .

210. *Murli v State*, (1888) 8 Awn 237.

211. *Sahebrao Baburao*, (1936) 38 Bom LR 1192 .

212. *Kudumban v Dinakaran*, 1962 Cr LJ 555 .

213. *Appa Mallya*, (1876) Unrep CrC 110.

214. *MS Ponuswami*, (1930) 8 Ran 268.

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#### **[s 207] Fraudulent claim to property to prevent its seizure as forfeited or in execution.**

**Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practices any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, 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 deals with the receiver, acceptor, or claimer of property who tries to prevent its seizure as a forfeiture. It punishes the accomplice just as the preceding section punishes the principal offender.

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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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#### **[s 208] Fraudulently suffering decree for sum not due.**

**Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.**

#### ILLUSTRATION

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

#### COMMENT.—



This section prevents the abuse of getting someone to file a collusive suit for recovery of the whole property and suffering a decree to be passed. It punishes persons making fictitious claims in order to secure the property of the defendant against person to whom he may become indebted in future.

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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#### **[s 209] Dishonestly making false claim in Court.**

**Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.**

#### **COMMENT.—**

This section relates to false and fraudulent claims in a Court of Justice. It is much wider than the last section as it applies to a person who is acting fraudulently or dishonestly. Not only must the claim be false to the knowledge of the person making it, but the object of it must be to defraud, to cause wrongful loss or wrongful gain, to injure or to annoy. The section punishes the making of a false claim. The offence will be complete as soon as a suit is filed. If a person applies for the execution of a decree which has already been executed his act will be an offence under the next section.<sup>215.</sup>

Where the Court took cognizance of a complaint against dishonestly making a false claim in a Court without complaint of the concerned civil judge, the cognizance was held to be not justified by reason of section 195(b)(ii), [Cr PC, 1973](#) that covers such