

Controller but the complaint did not set out a single averment from the said affidavit, which is said to be false, it was held that the complaint was not maintainable.<sup>128.</sup>

### **[s 199.1] Ingredients.—**

This section requires three essentials:—

1. Making of a declaration that a Court or a public servant is bound or authorised by law to receive in evidence.
2. Making of a false statement in such declaration knowing or believing it to be false.
3. Such false statement must be touching any point material to the object for which the declaration is made or used.<sup>129.</sup> Section 199 provides punishment for making a false statement in a declaration that is by law receivable in evidence. Rival contentions set out in affidavits accepted or rejected by Courts with reference to *onus probandi* do not furnish foundation for a charge under [section 199, IPC, 1860](#).<sup>130.</sup> A declaration before it could be made the foundation of charge under [section 199 of IPC, 1860](#), it is necessary that it must be admissible in evidence as proof of the fact declared under any law in consequence of which the Court is bound or authorised to receive it as such.<sup>131.</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] .

127. *A Vedamuttu*, (1868) 4 MHC 185 ; *Asgarali v State*, (1943) Nag 547.

128. *Chandrapal Singh*, 1982 Cr LJ 1731 : AIR 1982 SC 1238 : (1982) 1 SCC 466 . *Shiv Raman Gaur v Madan Mohan Kanda*, 1990 Cr LJ 1033 P&H.

129. *Maharashtra State Electricity Distribution Co Ltd v Datar Switchgerar Ltd*, (2010) 10 SCC 479 [LNIND 2010 SC 979] : 2011 Cr LJ 8 L : (2010) 12 SCR 551 : (2011) 1 SCC (Cr) 68.

130. *Chandrapal Singh v Maharaj Singh*, AIR 1982 SC 1238 (1982) 1 SCC 466 .

131. *D Jothi v KP Kandasamy*, 2000 Cr LJ 292 (Mad).

## 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.<sup>1</sup>

#### **[s 200] Using as true such declaration knowing it to be false.**

**Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.**

**Explanation.—**A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 to 200.

#### **COMMENT.—**

This section is connected with the last section just as section 198 is with section 197 or section 196 with sections 193, 194 and 195. The person who uses a false declaration is made liable as one who makes it.

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 201] Causing disappearance of evidence of offence, or giving false information to screen offender—.**

**Whoever, knowing or having reason to believe that an offence has been committed,<sup>1</sup> causes any evidence of the commission of that offence to disappear, with the intention of screening the offender<sup>2</sup> from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false;**

**if a capital offence;**

**shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;**

**if punishable with imprisonment for life;**

**and if the offence is punishable with <sup>132</sup>[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;**

**if punishable with less than ten years' imprisonment.**

**and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.**

#### ILLUSTRATION

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

#### COMMENT.—

**Object.**—This section relates to the disappearance of any evidence of the commission of an offence and includes also the giving of false information with the intention of screening an offender. Sections 202 and 203 relate to the giving or omitting to give such information, and section 204 to the destruction of documentary evidence.

There are three groups of sections in the Code relating to the giving of information. First, sections 118–120 deal with concealment of a design to commit an offence; second sections 176, 177, 181 and 182 deal with omission to give information and with the giving of false information; and, third, sections 201–203 deal with causing the disappearance of evidence.

#### [s 201.1] Scope.—

The Supreme Court has held that this section is not restricted to the case of a person who screens the actual offender; it can be applied even to a person guilty of the main offence, though as a matter of practice a Court will not convict a person both of the main offence and under this section.<sup>133.</sup>

But, if the commission of the main offence is not brought home to the accused, then he can be convicted under this section.<sup>134.</sup> Where it is impossible to say definitely that a person has committed the principal offence he cannot escape conviction under this section merely because there are grounds for suspicion that he might be the principal culprit.<sup>135.</sup> A woman's husband and in-laws could not be convicted of murdering her because there was no evidence whatsoever. They were convicted under this section because they gave no reasonable explanation of the unnatural death and had also disposed of the body in suspicious circumstances (dead body found near railway track).<sup>136.</sup> The fact that the accused persons cannot be convicted for offence punishable under [section 302 IPC, 1860](#) does not extricate them from the offence under [section 201 IPC, 1860](#).<sup>137.</sup> In a case of bride burning, where the *post-mortem* report was that death was due to throttling, burning her subsequently was held to be a clear proof of the fact that the evidence of strangulation was sought to be destroyed by the accused husband by pouring kerosene and setting her ablaze. The conviction of the husband under sections 201, 302 and 498-A was held to be proper.<sup>138.</sup>

A statement given by a person in the course of an investigation by the police cannot amount to an offence under this section and section 203, even if it ultimately turns out to be false.<sup>139.</sup> The allegation against the appellant was that, he had deliberately shielded the real offenders in the murder case and was accordingly liable for the offence under [section 201 of the IPC, 1860](#). Supreme Court acquitted the accused

holding that it is not possible on the evidence to ascertain, as to whether the appellant was, in fact, guilty of the offence alleged against him.<sup>140.</sup>

The Supreme Court has held that where the evidence showed that a person had died and his body was found in a trunk and discovered in a well, and that the accused had taken part in the disposal of the body but there was no evidence to show the cause of his death, or the manner or circumstances in which it came about, it was held that the accused could not be convicted for an offence under this section.<sup>141.</sup> In other words, the mere secreting of a dead body without first proving that the corpse secreted was the *corpus delicti* of a murder case is no offence under [section 201, IPC, 1860](#).<sup>142.</sup>

### **[s 201.2] Independent offence.—**

A charge under [section 201 of the IPC, 1860](#) can be independently laid and conviction maintained also, in case the prosecution is able to establish that an offence had been committed, the person charged with the offence had the knowledge or the reason to believe that the offence had been committed, the said person has caused disappearance of evidence and such act of disappearance has been done with the intention of screening the offender from legal punishment. Mere suspicion is not sufficient, it must be proved that the accused knew or had a reason to believe that the offence has been committed and yet he caused the evidence to disappear so as to screen the offender. The offender may be either himself or any other person.<sup>143.</sup> It has been held that the offence under the section is of independent nature, though it cannot be separated from the substance of the main offence. Accordingly, a conviction under the section can be recorded even though the commission of the main offence is not established. The Court, however, pointed out that such cases are likely to be very small in number. Applying this to the facts of the case, the Court held that the accused was guilty of offence under this section because he had buried the dead body of his wife in his field and misguided the police of her disappearance, though, because of decomposition, it could not be proved that he was responsible for her death.<sup>144.</sup>

### **[s 201.3] Ingredients.—**

To bring home a charge under [section 201, IPC](#), the prosecution must prove:—

- (1) That an offence has been committed.
- (2) That the accused knew or had reason to believe the commission of such an offence.
- (3) That with such knowledge or belief he
  - (a) caused any evidence of the commission of that offence to disappear, or
  - (b) gave any information relating to that offence which he then knew or believed to be false.
- (4) That he did so as aforesaid with the intention of screening the offender from legal punishment.
- (5) If the charge be of an aggravated form, it must be further proved that the offence in respect of which the accused did as in (3) and (4) *supra*, was punishable with death or imprisonment for life or imprisonment extending to ten years.<sup>145.</sup>

**1. 'Knowing or having reason to believe that an offence has been committed'.—**It must be proved that an offence, the evidence of which the accused is charged with causing to disappear, has actually been committed,<sup>146.</sup> and that the accused knew, or had information sufficient to lead him to believe, that the offence had been committed.<sup>147.</sup> Unless the prosecution was able to establish that the accused person knew or had reason to believe that an offence has been committed and had done something causing the offence of commission of evidence to disappear, he cannot be convicted.<sup>148.</sup>

Where the accused committed rape on a seven-year-old minor girl at his studio, killed her and disposed of her dead body in a carton. The dead body of the deceased was found in the carton, which the accused procured from witness. Conviction under [sections 302, 376 and 201 IPC, 1860](#) is maintained.<sup>149.</sup>

The charge framed was for causing disappearance for evidence. The fact that concealment was the likely effect of the Act is not enough. There was no evidence to attribute the knowledge of the death of the victim woman to the accused. Hence, the essential ingredient of the offence was missing.<sup>150.</sup>

#### **[s 201.4] Causing disappearance by preventing information from reaching police.—**

Where after raping a girl of 11 years the accused persons thrust a stick into her private part of which she died and they falsely told the mother of the victim that they had already reported the matter to the police and in the meantime there was disappearance of evidence, they were held liable under this section.<sup>151.</sup> Where the Court has no case that there is any intentional omission to give information by the accused to the police, the conviction under section 201 cannot be maintained only on the ground that no communication was given to the police and that the post-mortem had not been performed. It is also no case of the complainant that he had requested for post-mortem of the body and that intimation should have been given to the police before the last rites were performed and there is also no charge under [section 202 of the IPC, 1860](#) of intentionally omitting to give information of the unnatural death to the police.<sup>152.</sup>

**2. 'Intention of screening offence of offender'.—**The intention to screen the offender must be the primary and sole object of the accused. The fact that the concealment was likely to have that effect is not sufficient.<sup>153.</sup> The accused person killed his brother and his whole family in order to avoid partition of the joint family property. There was no evidence to show that his son had common intention with him or participated in the commission of the crime. But because he had seen his father commit multiple murders, he tried to destroy the evidence by throwing away certain articles on two occasions from over a bridge. It seemed obvious that he had done that with the primary object of saving his father. He was convicted under this section.<sup>154.</sup>

Where a man shot down his wife with his pistol, his companion, who played no other role, but concealed the authorship of the homicide, he was held guilty under this section.<sup>155.</sup> Where the co-accused persons told the investigating officer that the deceased was not present in the house at the material time, it was held that this amounted to the offence of screening the offender.<sup>156.</sup>

#### **[s 201.5] Cases.—**

In the *Jessica Lal* murder Case<sup>157</sup>, the Supreme Court upheld the conviction of co-accused under [section 201](#) read with [section 120-B IPC, 1860](#) considering the evidence relating to their presence at the time of incident, removal of Tata Safari, his call details etc. as well as the evidence of PWs 30 and 101. In another case where the accused committed murder of his wife assaulting on her head with a chopper did cause the evidence to disappear by setting fire to the dead body after pouring kerosene on her, it is found that the accused has committed an offence punishable under [sections 302 and 201 of IPC, 1860](#).<sup>158</sup> Where unnatural conduct of appellants to dispose of dead body of victim without having awaited for victim's husband who was already on his way to home and the evidence shows that victim died under unnatural circumstances, conviction under [sections 302 and 201 IPC, 1860](#) is upheld.<sup>159</sup> Where the accused husband strangled his young wife to death and attempted to destroy evidence by burning her dead body, the order of acquittal of the accused of the offence under sections 300 and 201 was reversed by the Apex Court.<sup>160</sup>

#### **[s 201.6] Help rendered to conceal crime.—**

Where a person through fear did not interpose to prevent the commission of a murder, and afterwards helped the murderers in concealing the body, it was held that he was not guilty of abetment of murder but was guilty of an offence under this section.<sup>161</sup> A person who assists the actual murderers in removing the corpse of their victim to a distance from the place where the murder was committed is *prima facie* guilty of an offence under this section, until he can establish that he acted under compulsion.<sup>162</sup> Where it appeared from the statement of the accused that he took from the men who, according to him committed the murder, a jewel which was unquestionably the property of the deceased and he hid it and produced it later, it was held that the accused, when he hid the jewel, had the intention of screening the offender, whoever he was, from legal punishment and so was guilty of an offence under this section.<sup>163</sup> The death of a woman was caused on the first floor of the house and her mother-in-law, the only other occupant of the house at the time of the occurrence, was residing on the ground floor. The place of incident was intermeddled and bamboo pieces, rafters, and broken tiles were thrown over the dead body with a view to cause disappearance of evidence and to screen the offender. It was held that it was not possible without the complicity of the mother-in-law and hence though she could not be held guilty of murder or abetting it, she was guilty of an offence under section 201.<sup>164</sup>

#### **[s 201.7] Death in custody.—**

Where there was death of a person in the police custody while he was detained there for interrogation and his dead body was not traced, however, the evidence of other witnesses who were also beaten up and injured by the police, categorically established that the deceased became unconscious on receipt of injuries inflicted by the police and died, it was held that an irresistible inference could be drawn that the police personnel who caused the death, must also have caused the disappearance of the body.<sup>165</sup>

#### **[s 201.8] Bride burning.—**

In a bride burning case, the victim was murdered and thereafter her body was burnt to screen the offence. The guilt of the accused mother-in-law and that of the husband of the victim as *particeps criminis* was established beyond any shadow of doubt. The



order of acquittal passed by the High Court from the offence of murder was reversed and set aside and that of the trial Court convicting both the accused under section 300 was upheld. The mother-in-law was also convicted under section 201.<sup>166.</sup>

**[s 201.9] False explanation by wife of death of husband.—**

The accused wife attempted to explain away the death of her husband by saying that he was attempting suicide and while she attempted to save him, he fell, down to death. A search of her house showed evidence of murder. The Court said that even if she had not herself caused death, she was in know of things and attempted to explain away the incident by false explanations. The finding of guilt and her conviction under the section could not be interfered with.<sup>167.</sup>

**[s 201.10] Kidnapping, murder and concealment.—**

The charge was that of Kidnapping the girl, murdering her and then concealing the dead body. The police brought the accused to his house. He himself dug the place from where the body was exhumed. The accused admitted that the house belonged to him. The accused failed to explain how the body came to be buried in his house. The Supreme Court confirmed his conviction under sections 300, 364 and 201.<sup>168.</sup>

**[s 201.11] Disposal of dead body by burning.—**

The fact that the accused, after killing his two minor daughters, threw their dead bodies in the river, which amounted to causing disappearance of the evidence of murder.<sup>169.</sup>

**[s 201.12] Failure of doctor to give information.—**

The failure on the part of the doctor to give information to police for six days after the admission of a burnt patient has been held not to constitute any offence under section 201 by itself.<sup>170.</sup>

**[s 201.13] Threat to approver.—**

Oral threat or inducement given by the two lady lawyers to the approver not to give any statement against the petitioner, cannot amount to commission of an offence under [section 201 IPC, 1860](#).<sup>171.</sup>

**[s 201.14] Sanction under [section 197 Cr PC, 1973](#).—**

In a case where the allegation was that HIV contaminated blood was supplied to the Government Medical College Hospital and as a result, some patients who were given blood transfusion had tested HIV positive. Accused tampered with the entries made in official register, tearing of pages from the different official registers and stowing them

away in house. The acts cannot be related to the discharge of his official duties and hence sanction for prosecution under [section 197 Cr PC, 1973](#) not required.<sup>172.</sup>

### **[s 201.15] Acquittal for main offence, conviction under section 201.—**

One *Palvinder Kaur* was tried for offence under [sections 302 and 201 Penal Code](#) and was convicted under [section 302 IPC, 1860](#) but no verdict was recorded regarding the charge under [section 201 Penal Code](#). In appeal, High Court acquitted her of the charge of murder, but convicted under [section 201 of Penal Code](#). In the appeal before Supreme Court, it was held that in order to establish the charge under [section 201 IPC, 1860](#) it is essential to prove that substantive offence has been committed and the accused knew or had reason to believe that such offence has been committed with requisite knowledge and intention of screening the offender from such legal punishment, caused any evidence of the commission of that offence to disappear or gave any information respecting such offence or having such knowledge or believed to be false. She is acquitted under [section 201 IPC, 1860](#).<sup>173.</sup> Conviction for causing disappearance of evidence is possible even if nobody has been convicted for the main offence.<sup>174.</sup> Where the allegation was that the appellant killed his wife with a bamboo stick and buried her dead body in dry portion of pond located in his compound and there was no mark of injury found on the dead body; Court held that the possibility that deceased committed suicide by consuming poison cannot be ruled out. Though he was acquitted under section 302, but was convicted under [section 201 IPC, 1860](#).<sup>175.</sup>

### **[s 201.16] Main accused died during pendency of trial.—**

Where main accused died during pendency of trial, conviction of co-accused for causing disappearance of evidence is held not proper.<sup>176.</sup>

### **[s 201.17] CASES.—**

however, submitted with respect that having regard to the decisions of the Supreme Court in the cases of *Om Prakash*,<sup>177.</sup> and *Abhayanand*,<sup>178.</sup> where it has been held that to constitute an attempt to commit an offence it is not essential that the last proximate act must be done by the accused, in the instant case too the accused could perhaps be held guilty of an attempt to cause disappearance of the evidence of murder under [sections 201/511, IPC, 1860](#), as they, in fact, did all that lay within their power to do towards causing disappearance of the evidence of murder but the plot failed as the police intervened in the matter. Where the members of an unlawful assembly indiscriminately killed five persons, dragged the dead bodies over a distance, beheaded the victims and threw their limbs and bodies in the raging fire, they not only committed an offence under [section 201, IPC, 1860](#), but were also liable under [sections 302/149, IPC, 1860](#).<sup>179.</sup> If murder of an illegitimate child remains unproved, mere secreting of the dead body of the child does not constitute an offence under [section 201 IPC, 1860](#).<sup>180.</sup> Where the complaint filed under [section 201, IPC, 1860](#), besides mentioning the section did not contain a single word as to how the evidence of the crime was destroyed, it was held that no cognizance could be taken on such a complaint as it did not even contain allegations to constitute the offence under [section 201, IPC, 1860](#).<sup>181.</sup> Mere removal of dead body from one place to another does not by itself amount to causing disappearance of evidence under [section 201, IPC, 1860](#).<sup>182.</sup> Where the dead bodies were disposed of by some of the members of the unlawful assembly, all of them could