

and if the offence is punishable with imprisonment 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 imprisonment provided for the offence, or with fine, or with both.

294.[Exception.—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.]

Illustrations. [Rep. by Act 10 of 1882, section 2 and Sch I.]

COMMENT.—

The preceding section punishes the receiver of a gift in consideration of compromising an offence, whereas this section punishes the offerer of the gift.

[s 214.1] Ingredients.—

This section has two essentials—

1. Offering any gratification or restoration of property to some person.
2. Such offer must have been in consideration of the person's (a) concealing an offence, or (b) of his screening any person from legal punishment for an offence, or (c) of his not proceeding against a person, for the purpose of bringing him to legal punishment. The section presupposes the actual commission of an offence or the guilt of the person screened from punishment. Where the accused, an overseer who was charged with preparing false muster rolls and misappropriating Government money allegedly tried to bribe someone with a view to prevent action being taken against him and was thus prosecuted under [sections 165A and 214, IPC, 1860](#), but was acquitted of the offence under [section 165A, IPC, 1860](#), for want of evidence, he could not also be convicted in view of infirmities of the case of an offence under [section 214, IPC, 1860](#).²⁹⁵

[Section 320\(1\) of the Criminal Procedure Code](#) enumerates the offences that can be lawfully compounded.

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 \[LNIND 2009 SC 1659\]](#) .

292. Subs. by Act 42 of 1953, section 4 and Sch III, for "to restore or cause the restoration of" (w.e.f. 23 December 1953).

293. Subs. by Act 26 of 1955, section 117 and Sch., for "transportation for life" (w.e.f. 1 January 1956).

294. Subs. by Act 8 of 1882, section 6, for *Exception*.

295. *Mohd Aslam*, [1981 Cr LJ 1285](#) : [AIR 1981 SC 1735](#) .

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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 215] Taking gift to help to recover stolen property, etc.

Whoever takes or agrees or consents to take ¹ any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended ² and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

COMMENT.—

Scope.—This section is intended to apply to someone who, being in league with the thief, receives some gratification on account of helping the owner to recover the stolen property, without at the same time using all the means in his power to cause the thief to be apprehended and convicted of the offence. There is nothing in this section that should exclude an actual thief from liability under it if in addition to committing theft he also tried to realise money by a promise to return the stolen article. An actual thief or a person suspected to be the thief can be convicted under this section.²⁹⁶

[s 215.1] Ingredients.—

This section has three essentials—

1. Taking or agreeing or consenting to take any gratification under pretence or on account of helping any person to recover any movable property.
2. The owner of such property must have been deprived of it by an offence punishable under the [Penal Code](#).
3. The person taking the gratification must not have used all means in his power to cause the offender to be apprehended and convicted of the offence.

[s 215.2] Object.—

The primary aim of this section is to punish all trafficking by which a person, knowing that property has been obtained by crime, and knowing the criminal, makes a profit out of the crime while screening the offender from justice. The clear meaning of the section is that it is an offence to receive money for helping any person to recover property stolen or misappropriated and that there is an exception only in favour of the man who can show that he used all means in his power to cause the apprehension of the offender.^{297.}

1. 'Takes or agrees or consents to take'.—These words imply that the person taking the gratification and the person giving it have agreed not only as to the object for which the gratification is to be given, but also as to the shape or form the gratification is to take.^{298.}

2. 'Unless he uses all means in his power to cause the offender to be apprehended'.—It is not for the prosecution to prove the negative that the accused did not use all his power to cause the offender to be apprehended. It is for the defence to establish that the accused did all in his power to cause the offender to be apprehended.^{299.}

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] .

296. *Mukhtara*, (1924) 46 All 915 ; *Deo Suchit Rai*, (1947) ALJ 48 (FB); **overruling** *Muhammad Ali*, (1900) 23 All 81 and *Mangu*, (1927) 50 All 186 .

297. *Yusuf Mian v State*, (1938) All 681 .

298. *Hargayan v State*, (1922) 45 All 159 .

299. *Deo Suchit Rai*, 1947 All LJ 48 (FB); *DK Balai*, 1959 Cr LJ 1438 .

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[s 216] Harboursing offender who has escaped from custody or whose apprehension has been ordered—.

Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody;

or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following that is to say,—

if a capital offence;

if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall 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, or with imprisonment.

if the offence is punishable with ³⁰⁰[imprisonment for life], or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine;

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he 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 such offence, or with fine, or with both.

³⁰¹["Offence" in this section includes also any act or omission of which a person is alleged to have been guilty out of ³⁰²[India], which, if he had been guilty of it in ³⁰³[India], would have been punishable as an offence, and for which he is, under any law relating to extradition, ³⁰⁴[***] or otherwise, liable to be apprehended or detained in custody in ³⁰⁵[India]; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in ³⁰⁶[India].]

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

COMMENT.—

To establish an offence under this section it must be shown, (1) that there has been an order for the apprehension of a certain person as being guilty of an offence; (2) knowledge by the accused party of that order, and (3) the harbouring or concealing by the accused of the person with the intention of preventing him from being apprehended.³⁰⁷ It would not be safe to convict the appellant for the offence punishable under [section 216 IPC, 1860](#) in absence of evidence in this regard.³⁰⁸

This section may be compared with section 212. The latter deals with the offence of harbouring an offender who having committed an offence absconds. This section deals with harbouring an offender who has escaped from custody after being actually convicted or charged with the offence, or whose apprehension has been ordered; the latter offence is in the eye of the law more aggravated, and a heavier punishment is, therefore, awarded for it. It is thus an aggravated form of the offence punishable under section 212.

The section only takes into consideration cases where the man who is harboured is wanted for an offence for which a maximum sentence of at least one year's imprisonment is provided. No provision is made for cases where he is wanted for offences for which the maximum sentence is less than one year.³⁰⁹ Where certain persons were apprehended for gaming and they escaped from police custody, it was held by the Supreme Court that this section was not applicable because they were neither charged nor convicted of any offence and that the conviction should have been under section 224.³¹⁰

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] .
300. Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).
301. Ins. by Act 10 of 1886, section 23.
302. The words "British India" have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, section 3 and Sch (w.e.f. 1 April 1951), to read as above.
303. *Ibid*.
304. The words "or under the Fugitive Offenders Act, 1881," omitted by Act 3 of 1951, section 3 and Sch (w.e.f. 1 April 1951).
305. The words "British India" have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, section 3 and Sch (w.e.f. 1 April 1951), to read as above.
306. *Ibid*.
307. *Easwaramurthi*, (1944) 71 IA 83 , 46 Bom LR 844, (1945) Mad 237.
308. *Anadharaj v State of TN*, (2000) 9 SCC 45 : JT 2000 (3) SC 368 : 2000 AIR (SCW) 4957; (2000) 1 SCC (Cr) 1154.
309. *Deo Baksh Singh*, (1942) 18 Luck 617 .
310. *Ajab v State of Maharashtra*, AIR 1989 SC 827 : 1989 Cr LJ 954 : 1989 Supp (1) SCC 601 .

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311.[s 216A] Penalty for harbouring robbers or dacoits.

Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without **312.** [India].

Exception.—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.]

COMMENT.—

This section enables the Court to inflict enhanced punishment, where the persons harboured are robbers or dacoits or where they intended to commit robbery or dacoity.

Where a person charged with the substantive offence of dacoity or robbery has been acquitted of that offence, another person who is said to have intended to screen him from legal punishment in respect of that offence cannot be held guilty of harbouring the alleged offender under this section.³¹³.

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] .

311. Ins. by Act 3 of 1894, section 8.

312. The words "British India" have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, section 3 and Sch (w.e.f. 1 April 1951), to read as above.

313. *Subramanya Ayyar*, (1947) Mad 793. See for acquittal under section 216A, acquitted on fact, *State of Madhya Pradesh v Veeru Singh*, 2010Cr LJ 2896 (MP)

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[s 216B] [Repealed]

314.*] Definition of "harbour" in sections 212, 216 and 216A. [Repealed by Indian Penal Co de (Amendment) Act, 1942 (VIII of 1942), section 3].**

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] .

314. Ins. by Act 3 of 1894, section 8.