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Law Relating to False Evidence in India: An Analysis

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ABSTRACT

Giving or fabricating false evidence impinges directly administration of justice and may also result in the miscarriage of justice. In criminal jurisprudence everyone has a right to represent his case with correct information in the form of evidence to justify his case. But in some of the cases person try to made another person responsible by providing false information to the police, they run the risk of being charged with fabricating false evidence. If it is determined that their goal was to obtain a conviction for the death penalty, life in prison, or a sentence of seven years or more, they will be punished in accordance with the offense for which they intended to falsely implicate that other person under Sections 194 and 195 of the Indian Penal Code; otherwise, they will be punished under Section 193 of IPC. A prosecution for a minor offense under Section 182 of the Indian Penal Code cannot be left to such a person. Now 163 year old Indian Penal Code, 1860 replaced with Bharatiya Nyaya (Second) Sanhita, 2023. In new code the concept of false evidence is defined under chapter XIV from section 227 onwards.

Keywords: *Nyaya, Sanhita, False Evidence, Fabrication, Prosecution, misleading, proof.*

I. INTRODUCTION

In court of law evidence is considered as an important aspect in every case because every accusation and demand in court has to be supported by various evidence otherwise it will be considered groundless. The word 'Evidence' has derived from the Latin expression 'Evidere' which means the state of evidence being plain, apparent, or notorious. It is a statement made under oath that the court requires or allows, as well as any document produced in accordance with its instructions. All information and facts that contribute to establishing the truth are included in the concept of "Evidence." Further, "Misleading Proof" is proof that isn't correct in nature. Making proof out of nowhere, showing something that has never occurred, or simply adjusting an episode that has truly happened sums to misleading proof.

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II. FALSE EVIDENCE

Infractions against public justice and the use of false evidence are addressed in 1860's Indian Penal Code, Chapter XI. The term "Evidence" refers to any type of legal evidence that can be used to convince a judge or jury of the alleged material facts of the case and is admissible during a trial. Information that has been fabricated or obtained illegally in an effort to influence the outcome of a court case is referred to as false evidence or fake evidence. A statement or piece of evidence used in court that is either known to be false or suspected to be false is considered false evidence. Criminal proof incorporates any unmistakable or immaterial evidence proposed to lay out a wrongdoing.

(A) Giving false evidence

Under Section 191 of the IPC, an individual who is legally bound by an oath or by any express provision of the law to speak the truth or is obliged to make a declaration on any matter and makes any statement that is untrue and which he either knows or believes to be untrue or thinks it is untrue, is claimed to have provided false evidence.

(B) Fabricating false evidence

Under Section 192 of the IPC, a person is guilty of fabricating false evidence if he intentionally creates a situation or creates a document or electronic record containing a false statement with the intent that the situation or false statement may be used as evidence in a legal proceeding and that the situation or false statement will be used as evidence.

(C) Punishment for false evidence

Under Section 193, any individual who deliberately gives false evidence in any court proceeding or furnishes false evidence with the motive of using it in court proceedings, will be penalised with imprisonment of either description for a term that may extend to seven years and be liable to a fine. Further, anyone who deliberately furnishes false evidence in any other case, will be liable to imprisonment for a term extendable up to three years and be liable to a fine, as well.

(D) Giving or fabricating false evidence with intent to procure conviction of capital offence

Further, under Section 194, any individual who furnishes false evidence with the intention to cause or after being aware that it will cause any innocent person to be convicted of an offence that is punishable by the death penalty shall be given a penalty of life imprisonment or rigorous imprisonment for a period extendable up to 10 years and shall also be liable to pay a fine.

Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment.

Moreover, under Section 195, any individual who furnishes false evidence with the intention to cause or after being aware that it will cause any innocent person to be convicted of an offence that is not punishable by the death penalty but punishable with imprisonment for life in prison or a term of seven years or exceeding it shall be held guilty of that offence and would be liable for punishment.

(E) Using evidence known to be false

Furthermore, under Section 196, anyone who fraudulently presents evidence that they know to be false or fabricated as true or genuine evidence is punished in the same way as if he gave or fabricated false evidence.

(F) Issuing or signing false certificate

Additionally, Section 197 states that any person who issues or signs any certificate that is required by law to be signed, or relates to any fact for which such a certificate is legally admissible in evidence, knowing or believing that such a certificate is false in any material point, will face the same punishment as if he provided false evidence.

(G) Using as true a certificate known to be false

According to Section 198, any individual who uses or attempts to use any evidence which he is aware is false or fabricated as true or genuine evidence, shall be given a punishment in the same manner as if he gave or fabricated false evidence.

(H) False statement made in declaration which is by law receivable as evidence

According to Section 199, any individual who, in any declaration made or subscribed to by him, in any court of law, or as a public servant or other individual, is obliged by the legal norms to get evidence of any fact, makes a false statement of which he has knowledge or believes it to be false or fabricated, will be punished in the same way as if he had furnished false evidence.

III. LANDMARK DECISIONS ON FALSE EVIDENCE

1. Ram Dhan v. State of U.P. & Anr. (2012)

In *Ram Dhan v. State of U.P. & Anr. (2012)*, the Court noted that Section 195 of the IPC makes it illegal to fabricate false evidence. It's not required for fake evidence to be created inside a courtroom because it can also be created outside a courtroom and still be used there.

2. Jotish Chandra Chaudhary v. State of Bihar (1968)

In *Jotish Chandra Chaudhary v. State of Bihar (1968)*, the Supreme Court held that the accused could not be charged with acting corruptly because the minor son's age in the trademark lawsuit was only declared after proper verification from the school administration.

3. Santokh Singh v. Izhar Hussain (1973)

In *Santokh Singh v. Izhar Hussain (1973)*, the Supreme Court ruled that test parade identification is typically used in rape cases to identify the accused by the victim, and that if the victim lied and said he was the accused, that is an offence that is covered by Sections 192 and 195 of the IPC. The Court noted that, rather than Section 211 of the IPC, providing false testimony in support of a prosecution case is a crime punishable under Sections 193 and 195 of the Code.

Witness making untruthful confession/admission in an official courtroom

(A) False Confession

When an accused person pleads guilty to a crime when, in reality, he did not commit that crime, this is known as a false confession. Bogus admission can allude to the blamed conceding to a wrongdoing when, as a matter of fact, he didn't carry out that wrongdoing. False confessions have been made by people who are either unable to understand or respond to the questions posed to them during cross-questioning during interrogation, or when they are forced to do so or when they have a mental disability.

Besides, such admissions are not permissible in that frame of mind of regulation, and the police are obliged to examine the charged appropriately to uncover reality. Such admissions block the country's equity conveyance framework and cause the preliminary interaction to be postponed. Further, it might try and cause the detainment of an honest individual and the liberating of genuine guilty parties, making the reason for equity discipline remain unaccomplished.

In *Palvinder Kaur v. State of Punjab (1952)*, the Hon'ble Supreme Court ruled that the court must accept the confession made in its entirety, that the incriminating portion cannot be accepted, and that the defensible portion be rejected. Further, the Court stated that any court of law does not have the authority to do so.

(B) Forced confession leading to false evidence

A constrained confession is one in which a suspect or detainee is pressured into admitting using torment. Because there was coercion and torture involved, a confession like this cannot be relied upon to reveal the truth. The person or people being questioned may either tell the story that

has been told to them or even fabricate lies on their own to appease the interrogator and bring an end to the torture.

For decades, the practice of coerced confessions in the European court system was justified by the Latin proverb “*confessio est regina probationum*,” meaning “*confession is the queen of evidence*.”

IV. TO GIVE FALSE EVIDENCE OR MISLEADING INFORMATION/STATEMENT

(A) Police perjury

Police perjury is defined as any dishonest testimony given by a police officer in a court of law while under oath to give an honest testimony. Perjury is committed if an officer intentionally on the stand gives a dishonest testimony. It is pertinent to note that perjury can also be a misdemeanor however, this depends on multiple factors, like the background of the officer or what he lied about while he was on the stand. In either case, it is a serious offence that involves lying about a defendant, causing a stumbling block in the justice system, and unfair treatment of the defendant. The phrase “lying on oath, especially by a police officer, to help gain a conviction” has been used to describe police perjury more broadly.

(B) False Identity

By asserting that any eyewitness to the crime mistakenly believed they saw the defendant when, in fact, the person they saw was someone else, mistaken identification is a legal defense that aims to discredit proof of guilt and asserts the real innocence of the criminal defendant. Because the prosecution in a criminal case must demonstrate the accused guilt beyond a reasonable doubt, the defendant must convince the jury that there is a reasonable doubt as to whether the witness actually saw what they claim to have seen or remembers seeing.

(C) Tampering with evidence

On numerous occasions, we have witnessed a common scene on police drama shows wherein a suspect, fearing arrest, destroys or damages evidence. The suspect may be witnessed throwing away incriminating documents or damaging evidence, perhaps tossing the documents or evidence in the fire or flushing it down the toilet. These are classic e.g. tampering with evidence.

Simply put, tampering with evidence is an offence involving any action that destroys, alters, conceals, or falsifies any evidence. Furthermore, tampering with evidence is strongly linked to impeding the administration of justice. Usually, evidence is tampered with to conceal a crime or to cause harm to the accused.

(D) False Evidence under The Bharatiya Nyaya (Second) Sanhita, 2023

The Bharatiya Nyaya (Second) Sanhita, 2023 is a new penal code which received the presidential assent and replaced the 163 year old Indian Penal Code, 1860. Under Bharatiya Nyaya (Second) Sanhita, 2023 various changes has been introduced through by addition and deletion. The concept of false evidence is defined under chapter XIV from section 227 onwards. Accordingly, Person who is legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, make any statement which is false, and which he either knows or believes to be false or does not believe to the true, is said to give false evidence.

As per Section 229 of the Bharatiya Nyaya (Second) Sanhita, 2023, Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricating false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for term which may extend to seven years, and shall also be liable to fine which may extend to seven years, and shall also be liable to fine which may extend to ten thousand rupees.

V. CONCLUSION

In conclusion, false evidence is information provided in a legal proceeding to influence the outcome of the truth. Bogus proof can be created, forged, or corrupted; the party using it is responsible for determining where it is being used. False testimony is used to convict the innocent and obtain a conviction. Because of the broad utilization of created proof and witnesses, the punishments illustrated in these provisions should be fortified. The terms of the Indian Penal Code (IPC), will be applied to those who provide false testimony or fabricate evidence. We can gather that Part 191 and Segment 192 are unmistakable from each other. The guilty party who constrains, compromises, or vows to give misleading declaration will be rebuffed. It ought to be featured that the individual giving declaration should know about or immovably accept that what they are talking about is valid.

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