

Illustrations: of
justice. a has
fabricated false
evidence.



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Illustrations: (a) A puts jewels into a box belonging to Z, with the intention that the same may be found in that box, and that this circumstance may cause Z to be convicted of theft.

A has fabricated false evidence. (b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence. (c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes letter in imitation of Z's handwriting purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence. Ingredients: (i) Causing any circumstance to exist or making any false entry in any book or record, or making any document containing a false statement, (ii) with an intention that such circumstance, false entry or false statement, may appear in evidence in a judicial proceeding; or in a proceeding taken by law before a public servant or an arbitrator, and (iii) may cause any person who in such proceeding is to form an opinion upon the evidence to entertain an erroneous opinion touching any point material to the result of such proceeding. For prosecution under this section it should be alleged that forgery has been committed in or in relation to any proceeding in any Court.

If the forged document is not produced in any Court, Section 195(l) (b) of Criminal Procedure Code is not attracted and no Court can take cognizance of the offence. Judicial proceeding: Judicial proceeding is defined in Section 2(i) of the Criminal Procedure Code, 1973 as 'judicial proceeding includes any proceeding in the course of which evidence is or may be legally taken on oath'. The definition is inclusive in nature. This includes any proceeding

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where evidence can be legally taken on oath for the purpose of deciding a dispute. The section 192 is applicable where judicial proceeding is pending at the time of fabrication or there is reasonable possibility of judicial proceeding in future where the fabricated document will be presented in future. Public servant or arbitrator: As the section is not confined to judicial proceeding, it applies equally to a proceeding conducted by law before a public servant. There are many public servants who may not enjoy legal protection of conducting proceeding.

If a public servant is protected by law, the proceeding before such public servant will be treated as judicial proceeding for the purpose of this section as forest officer is a public servant and is empowered to hold enquiry. The proceeding before arbitrator is also a judicial proceeding for the purpose of this section. Illustrations: (i) Inquiry by a Magistrate under Section 144, Cr. P. C.

; (ii) proceedings by a Magistrate to decide fitness of sureties; (iii) proceedings by an Income-tax Officer in pursuance of a notice under the Income-tax Act; (iv) Inquiry under Legal Practitioners Act. Punishment for intentionally giving false evidence or fabricating such evidence is imprisonment of either kind upto 7 years and also fine if such offence has been committed in any stage of judicial proceeding and imprisonment of either kind upto 3 years and fine in other cases (Section 193). Actual use of such evidence is not necessary. User is not punishable under Section 193 but under Section 196. Intention is the gist of the offence of fabricating false evidence, and the making of a false document without such intention will not amount to fabrication of false evidence. The fabricated evidence must be <https://assignbuster.com/illustrations-of-justice-a-has-fabricated-false-evidence/>

admissible evidence and it must be material to the issue; if it is not such as to be likely to mislead any person who has to form an opinion on such evidence, the offence of fabricating false evidence will not be made out. “ Giving false evidence” and “ fabricating false evidence” are defined in Sections 191 and 192, respectively.

Section 193 provides the punishment for false evidence.