

The erroneous
opinion on any point
material



**ASSIGN
BUSTER**

The ingredients of the offence of fabricating false evidence are: (i) The causing of – a) Any circumstance to exist; or b) Making any false entry; or c) Of any document containing a false statement. (ii) With intention that it may appear in evidence in, – a) A judicial proceeding; or b) In a proceeding taken by law before a public servant; or c) An arbitrator. (iii) In order to cause any person whose duty it is in such proceedings to form an opinion upon the evidence, to arrive at an erroneous opinion on any point material to the result of such proceeding. In order to constitute an offence under Section 192, first, a person should fabricate the evidence and secondly, fabricated evidence should be used as evidence in a judicial proceeding or in a proceeding taken by law before a public servant.

The term ‘ fabrication’ refers to the fabrication of false evidence; and if the evidence fabricated is intended to be used in a judicial proceeding, the offence is committed as soon as the fabrication is complete; it is immaterial that the judicial proceeding has not been commenced, or that no actual use has been made of the evidence fabricated. The false evidence under Section 192 should be material to the case in which it is given though not so under Section 191. The word ‘ material’ means of such a nature as to affect in any way, directly or indirectly, the probability of anything to be determined by the proceeding, or the credit or any witness, and a fact may be material although evidence of its existence was improperly admitted. The Code of Criminal Procedure says that ‘ judicial proceeding’ includes any proceeding in the course of which evidence is or may be legally taken on oath.

Judicial proceeding means nothing more nor less than a step taken by a court in the course of administration of justice in connection with a case.

Executive proceedings are judicial proceedings. The provisions of Section 192 are not confined to false evidence to be used in judicial proceedings, but to any proceeding before a public servant. The term public servant has been defined in Section 21 of the code. Similarly the provisions of Section 192 are applicable in proceedings before an arbitrator. An arbitrator is a judge appointed by the consent of the parties to adjudicate upon a matter in controversy between them.

Therefore, his proceedings are also judicial. The offence of fabrication may arise by not only an act of commission, i. e.

, by making false entry in any book or record etc; but can also take place if a material omission is made in an entry or a statement. In order to attract the provisions of Section 192, it is not sufficient to make a false document. The mere making of false document will not amount to fabrication. At the time of making the false document, it is essential that the person making it should have the intention that the false document so made should appear in evidence in a judicial proceeding or in any proceeding taken by law. Unless this intention is proved an offence under Section 192 cannot be established. In order to establish the intention of using the false document in a proceeding, proximity to a judicial proceeding pending or the likelihood that judicial proceeding is going to be initiated, is a test by which intention to use the false document in a proceeding can be established. Even a reasonable prospect of using the document fabricated as evidence, is sufficient to substantiate the offence under Section 192. Where a person produced evidence in a suit a registered deed of sale in which the property sold was

wrongly numbered, and which was corrected by himself subsequent to the registration will not be considered as fabrication of evidence.

Where a police-officer made a false entry in the special diary relating to a case which was being investigated by him but the document in which the alleged false entry was made was not produced as evidence which was admissible in evidence, it was considered that he was not guilty of fabricating the evidence. The making up of accounts falsely with the intention of producing them before a forest officer not empowered by law to hold an investigation and take evidence was not considered to be a fabrication of false evidence.