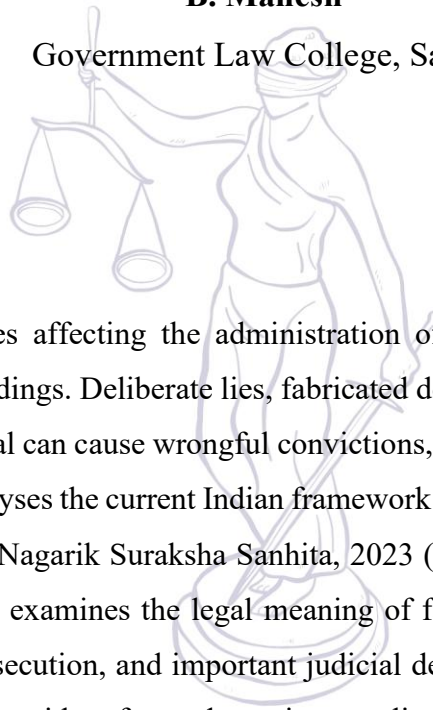


FALSE EVIDENCE AND OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE: A CRITICAL ANALYSIS OF THE INDIAN LEGAL FRAMEWORK

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ABSTRACT

False evidence and offenses affecting the administration of justice threaten the fairness and reliability of judicial proceedings. Deliberate lies, fabricated documents, false certificates, and the knowing use of false material can cause wrongful convictions, unjust acquittals, and loss of public confidence. This article analyses the current Indian framework under the Bharatiya Nyaya Sanhita, 2023 (BNS), the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and the Bharatiya Sakshya Adhiniyam, 2023 (BSA). It examines the legal meaning of false evidence, related offenses, the procedure for initiating prosecution, and important judicial decisions. It argues that enforcement must balance accountability with safeguards against retaliatory or unnecessary prosecution. It recommends reasoned judicial screening, reliable preservation of digital evidence, witness support, and consistent training for justice-system participants.

Keywords: False evidence; perjury; fabrication of evidence; administration of justice; BNS; BNSS; judicial integrity

I. INTRODUCTION

The administration of justice depends on the court's ability to determine disputes through reliable evidence and fair procedure. Judges ordinarily rely on witnesses, documents, electronic records, expert opinions, and submissions from the parties to reconstruct events. When these materials are intentionally falsified, the process may shift from truth to deception.

False evidence may involve knowingly lying under oath, creating a false document or electronic record, presenting fabricated material as genuine, or making a false declaration that the law recognizes as evidence. Related conduct, including concealment or destruction of evidence and intimidation of witnesses, can also obstruct the discovery of truth.

The legal response must nevertheless be balanced. Memory may be imperfect, witnesses may differ on peripheral details, and a person may make an honest mistake. The central question is whether the alleged falsehood was deliberate and material and if the evidence supports criminal charges.

This article examines the Indian legal framework, particularly the BNS, BNSS, and BSA, which came into force on 1 July 2024. It considers the principal offences, procedural safeguards, leading judicial decisions, practical challenges, and reforms needed to protect both judicial integrity and individual fairness.¹

II. MEANING AND FORMS OF FALSE EVIDENCE

False evidence is not simply information later shown to be inaccurate. The relevant statutory elements must be established, including the legal duty to speak truthfully, the falsity of the statement, and the required state of mind.

A. Giving false evidence Section 227 of the BNS addresses giving false evidence. In substance, it applies where a person legally bound by an oath or an express provision of law to state the truth, or bound by law to make a declaration, makes a statement that is false and which the person knows or believes to be false, or does not believe to be true.

¹ Ministry of Home Affairs, Government of India, 'New Criminal Laws'

B. Fabricating false evidence Section 228 concerns fabricating false evidence. Fabrication involves creating a circumstance, document, or electronic record containing a false statement with the intention that it may appear in evidence and cause the decision-maker to form an incorrect opinion on a material point. A false record prepared before litigation may still be intended for later use in a judicial proceeding.

C. Using evidence known to be false A person need not have created false material to incur liability for knowingly or fraudulently using it as genuine evidence. The law therefore addresses both the person who fabricates evidence and the person who knowingly relies on it. This distinction matters where a forged document passes through several hands before being submitted to a court.

D. False certificates and declarations The BNS contains provisions dealing with false certificates, the use of certificates known to be false, and false statements in declarations receivable as evidence.²

III. STATUTORY FRAMEWORK

A. Bharatiya Nyaya Sanhita, 2023 The BNS replaced the Indian Penal Code, 1860, subject to applicable savings and transitional rules. Chapter XIV addresses false evidence and offenses against public justice. Sections 227 and 228 deal, respectively, with giving and fabricating false evidence; Section 229 prescribes punishment for these offenses. The following provisions address more serious false evidence intended to procure convictions, use of evidence known to be false, false certificates, and false declarations. The exact provision and punishment depend on the conduct alleged and the applicable statutory language. The scheme recognizes that deliberately misleading a court can have far-reaching consequences. False evidence intended to expose an innocent person to severe criminal punishment is especially serious. Nevertheless, criminal liability must be based on proof of the elements of the offense, not on suspicion or the mere fact that a party's case has failed.

B. Bhartiya Nagarik Suraksha Sanhita, 2023 The BNSS oversees criminal proceedings. Section 215 restricts cognizance of specified offenses affecting public justice and certain offenses relating

² The Bharatiya Nyaya Sanhita 2023, ss 227–229 and relevant succeeding provisions.

to documents given in evidence, requiring a written complaint by the court or public authority specified by law in the relevant circumstances. Section 379 provides the procedure for cases covered by Section 215. Where the court considers an inquiry expedient in the interests of justice, it may conduct a preliminary inquiry if necessary, record a finding, and make a written complaint to the competent magistrate. This mechanism is important because perjury allegations may be used tactically by litigants to pressure opponents or prolong disputes. The procedure does not create immunity for deliberate falsehood; rather, it places an initial responsibility on the relevant court to consider whether prosecution is justified.³

C. Bharatiya Sakshya Adhiniyam, 2023 The BSA replaced the Indian Evidence.⁴

IV. OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

False evidence is one part of a wider group of offenses that obstruct courts and legal institutions. False charges and accusations may expose innocent people to investigation, arrest, stigma, and trial. A complaint that is not proven is not automatically a criminal false charge; the necessary intent or knowledge must be established.

Destruction, concealment, alteration, or fabrication of evidence can prevent investigators and courts from discovering what happened. In digital cases, this may involve deleting messages, manipulating files, altering metadata, or presenting an edited recording without explaining its limitations. Deliberate tampering must be distinguished from accidental loss, technical corruption, or an innocent failure to preserve material.

False certificates and declarations can distort proceedings even where no witness gives oral testimony. Medical certificates, identity documents, age records, and financial statements may

³ The Bharatiya Nagarik Suraksha Sanhita 2023, ss 215 and 379.

⁴ The Bharatiya Sakshya Adhiniyam 2023.

affect legal rights. Their authenticity and the knowledge of the person issuing or using them can therefore be central issues.

Witness intimidation also threatens the truth-finding process. A witness who is threatened may refuse to testify or may alter testimony out of fear. Protection, clear communication, and fair treatment can help witnesses provide evidence without coercion.

Lawful criticism of a judgment, respectful disagreement, or a genuine procedural objection should not be confused with criminal interference. The law must protect judicial proceedings without suppressing legitimate advocacy. Each offense has distinct ingredients, and accurate charging is essential to prevent overbroad criminalization.

V. LANDMARK JUDICIAL DECISIONS

A. Chajoo Ram v. Radhey Shyam⁵

In *Chajoo Ram v. Radhey Shyam*, the Supreme Court emphasized that perjury prosecution should not be initiated casually merely because a statement contains an inaccuracy. The Court's approach requires consideration of whether the falsehood appears deliberate and conscious, whether conviction is reasonably probable, and whether prosecution is necessary in the interests of justice. The decision reflects the balance between curbing deliberate falsehood and avoiding prosecution over doubtful or immaterial discrepancies.

B. Pritish v. State of Maharashtra⁶

⁵ *Chajoo Ram v Radhey Shyam* (1971) 1 SCC 774.

⁶ *Pritish v State of Maharashtra* (2002) 1 SCC 253.

Pritish v. State of Maharashtra considered the procedure for a court complaint concerning offenses affecting the administration of justice under the former Code of Criminal Procedure. The judgment explains the role of a preliminary inquiry and the court's decision whether to initiate the prescribed complaint process. A preliminary assessment is not the same as a full criminal trial; it determines whether the statutory mechanism should be set in motion. Present-day procedure must be read with the corresponding BNSS provisions.

C. Iqbal Singh Marwah v. Meenakshi Marwah⁷

In Iqbal Singh Marwah v. Meenakshi Marwah, the Supreme Court considered the relationship between alleged forgery and the special complaint procedure under the former CrPC. The decision demonstrates that the timing and circumstances of alleged forgery, and the statutory language governing documents connected with court proceedings, are important. Its principles should be applied carefully alongside the BNSS and the facts of each case.

D. Santokh Singh v. Izhar Hussain⁸

Santokh Singh v. Izhar Hussain is relevant to the court's approach to alleged false testimony and the procedure for prosecution. It emphasizes the importance of determining the legal nature of the conduct and the procedural route that must be followed.

VI. CRITICAL ANALYSIS AND PRACTICAL CHALLENGES

The first challenge is distinguishing deliberate falsehood from ordinary inconsistency. Memory is imperfect, and witnesses may differ because of stress, elapsed time, poor visibility, language barriers, or the form of questioning. A contradiction may affect credibility without proving intentional deception. Perjury proceedings should focus on a material statement and evidence supporting the required mental element.

⁷ Iqbal Singh Marwah v Meenakshi Marwah (2005) 4 SCC 370.

⁸ Santokh Singh v Izhar Hussain (1973) 2 SCC 406.

Second, criminal complaints may be used strategically. A litigant may threaten perjury action to intimidate an opponent, discourage a witness, or prolong proceedings after an unfavorable decision. Automatic prosecution whenever a party alleges a false statement could turn the process into harassment. Conversely, failure to act on strong evidence of fabrication can encourage impunity.

Messages, photographs, recordings, and digital documents can be edited, selectively presented, or stripped of context. Investigators should preserve original material, document collection methods, and obtain technical examination where necessary. A digital item should not be labelled "fabricated" merely because it is unfamiliar or complex; conclusions should rest on reliable evidence.

Records may disappear and witnesses' memories may fade, while a person accused of perjury may face prolonged uncertainty. Serious fabrication may nevertheless become apparent only later. Courts should consider materiality, reliability, delay, and the interests of justice.

Witnesses should understand their duty to tell the truth without being led to believe that every failure to remember a detail is criminal. Public officials must be held to appropriate standards of honesty and accuracy.

VII. SUGGESTIONS AND REFORMS

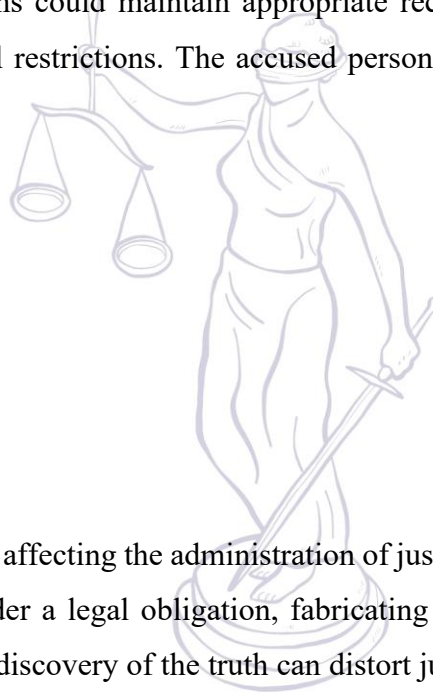
First, courts should give reasoned decisions before initiating perjury proceedings. An order should identify the allegedly false statement, explain its materiality, indicate the evidence suggesting deliberate falsity, and address why prosecution is expedient in the interests of justice. This would improve transparency and discourage retaliatory complaints.

Secondly, investigators should preserve original documents and electronic records, maintain a clear chain of custody, and record how authenticity was assessed. Independent forensic examination should be used where necessary before material is labelled fabricated.

Thirdly, witness support should be strengthened through clear communication, appropriate interpretation, protection from intimidation, and accurate recording of testimony. Vulnerable witnesses should be supported without coaching them to provide a particular version of events.

Fourth, judicial officers, police officers, and legal practitioners should receive ongoing training on the distinction between a deliberate material falsehood and a minor inconsistency. Training should also address digital evidence and the complaint procedure under the BNSS.

Fifthly, court administrations could maintain appropriate records of complaints and outcomes, subject to privacy and legal restrictions. The accused person retains the protections of criminal procedure.



VIII. CONCLUSION

False evidence and offenses affecting the administration of justice strike at the foundation of a fair trial. Deliberately lying under a legal obligation, fabricating documents, knowingly using false material, or obstructing the discovery of the truth can distort judicial decisions and harm innocent individuals. The BNS, BNSS, and BSA provide the current statutory framework, while judicial decisions emphasize the need for careful enforcement.

The objective should not be to maximize perjury prosecutions but to address deliberate and material attacks on justice effectively. Prosecution based on trivial inconsistencies can discourage witnesses and become a tool of harassment. Failure to act on strong evidence of fabrication can weaken public confidence. A balanced approach requires reliable evidence, reasoned screening, timely procedure, witness protection, and technical competence. Justice requires punishment for deliberate deception and a process that remains fair, accurate, and worthy of public trust.