PERJURY

[Section 191 To Section 200, P.P.C.]

Statement under section 164, Cr.P.C. A person making false statement to a magistrate on oath under section 164, Cr.P.C. can be charged with perjury. ILR 14 Lah. 507. Parma Nand v. Emp. (FB) 45 Bom. 834. Purshotam Ishwar Amin. 26 Cr.LJ 1457.

Statement under section 161, Cr.P.C. made to police during investigation. A person is not bound by law to tell the truth when questioned by a police officer, and will not be liable for perjury. (FB) (1881) 7 Cal. 121 Kassim Khan v. Emp. 7 Cr. LJ 3 Muhammad Usman.

Resiling from statement u/S. 161, Cr.P.C. is not punishable u/S. 182, PPC as statement u/S. 161 is neither on oath nor signed. PLJ 1986 Cr.C. (Pesh.) 52. Abdul Khanan.

False pleadings. Deliberately verifying false pleadings is punishable under Section 193, Penal Code. 14 Cr.LJ 456 Hakikat Singh.

Affidavit. Verification that all the paragraphs of the affidavit were true to his personal knowledge and belief, the accused could contend that the mischievous paragraphs were true to his belief and not personal knowledge, and it could not be held that the deponent had made deliberately a false affidavit. 194 All. 165 Lachmi Narain.

Deponent should state clearly the facts which can be proved from his own knowledge and facts believed by him to be true on reasonable grounds, separately. Charge of perjury on vague contents is misconceived when it is not known which facts in affidavit are true to the knowledge of the deponent. PLD 1963 Dac. 166 Aldy Muhammad.

A false affidavit by accused in a transfer application can be subject matter of a charge of perjury. ILR 6 Lah. 34 Pir Qadir Bakhsh Shah v. Emp.

Affidavit of service of process. An identifier who knowingly makes a false affidavit of service of process for the purpose of being used in a judicial proceedings commits an offence under section 193. 6 Pat. 760 Kari Gope v. Mahant Manmohan Das.

Accused is not liable to punishment for refusing to answer questions or giving false answers to them. Criminal Procedure Code Section 342 (2). However, Allahabad High Court held that there is no absolute protection or privilege for an accused person to escape liability under Section 193, Penal Code by reason of being an accused person. (1934) 57 All. 403 Bhagirath Lal v. Emperor.

False application. Verification and signing an application containing false statements is punishable under section 193 and it is no defence that verification and signatures were appended on a blank paper. 1 Cr.L.J. 959 Ratan Chand v. Emp.

False Kabin Nama. A Kabin Nama falsely reciting a valid marriage and a promise of dower to the bride is not punishable under Section 193 when there are no judicial proceedings pending. 44 CWN 897 Suraj-ul-Haq v. Crown.

False statement. It must be proved that the statement alleged to be false is nothing but false. It is not enough to prove that the probabilities are that statement was false. 4 Cr.LJ 227 Hira Nand. 24 Cr.L.J. 321 Lalmoni Nonia.

False statement made before a magistrate by a lady accused and was convicted u/S. 193 PPC, held, ladies under harassment of police as well as their parents are compelled to make such statement. Justice is to be done and provisions of penal sections are to be invoked keeping in view the norms of the society. Accused acquitted. PLJ 1996 Cr.C. (Lah.) 1811, Mst. Sakhia Kausar.

Whether statement material or immaterial for the case before the Court is not relevant for conviction but it may be considered for the quantum of sentence. 30 Cr.L.J. 1154 = AIR 1929 All. 936 Raja Ram v. Emp.

Inconsistent statement made by a witness during cross-examination is not perjury if it is the result of confusion or mistake. If the witness reverts to truth in the course of the trial he cannot be prosecuted for perjury. 29 Cr.L.J. 1064 Allah Wasaya v. Emp.

Contradictory statement. When contradictory statements are made by a witness he may be charged in the alternative. AIR 1946 Bom. 950 Chanbassayya.

Contradictory statements: Usually it is not expedient to prosecute a witness who has made contradictory statements in the course of the same deposition, because the presumption is that the witness is trying to correct a false statement by his subsequent statement and in such cases some locus poenitentiae should be given to the witness but this does not apply where different depositions are recorded after an interval of time. AIR 1955 Nag. 145 = 36 Cr. L.J. 935 Local Government v. Jit Singh.

Contradictory statement after lapse of time. A witness made a statement before a magistrate. After examination-in-chief the statement was read over to the witness. Cross-examination was adjourned to next day. On the next day the witness made a contradictory statement in cross-examination. The witness was convicted. High Court upheld the conviction. (1902) 26 Mad. 55 Palani Palagan v. Emp.

Contradictory statement in the same deposition made by the witness, it can be presumed that the witness had made the incorrect statement in good faith. It is undesirable that a witness should be afraid to correct mistakes for fear of rendering himself liable to prosecution. 17 Cr.L.J. 240 Girdhari Mall v. Emp. AIR 1926 Sindh 78.

Witness cannot be convicted for perjury where the accused while giving evidence corrected himself during the evidence. NLR 1988 Cr. 144. Raja Altaf Hussain.

Immediate correction. When a witness makes a false statement and at once admits it and state the real truth, he should not be prosecuted for perjury. 12 Cr. lJ 405 Dasondha Singh v. Emp.

Slight discrepancy. Where the statements complained of are slightly discrepant owing to inaccuracies of mind are not deliberately false prosecution for perjury should not be ordered. 19 Cr.L.J. 230 Chandra Mohan Nanda. AIR 1918 Cal. 106 (2).

Lapse of time. Witnesses speaking after lapse of several years words probably misunderstood or forgotten, perjury is not necessarily to be imputed. (PC) (1856) 6 MIA 309 Nagaluchmee Ammal v. Gopoo Nadaraja.

Perjury section 193, P.P.C. When evidence not recorded in accordance with law conviction cannot be maintained under section 193, P.P.C. The statement of the accused was read to him by a clerk of Court not in the presence of his counsel. 2 Cr.LJ 756 Kamat Chetty v. Emp. ILR 28 Mad. 308.

Form of question put to witness not known and no opportunity given to him to explain his reply. Conviction under section 193, P.P.C. set aside. 7 Cr.LJ 460 Harnam Singh v. Emp.

Deposition not read over to witness. When a deposition is not read over to a witness in the presence of the accused according to section 360 (1) the witness cannot be prosecuted for perjury. 6 Cal. 762 Mayadeh. 36 Cal. 955 Gyotish Chandra, 18 Cr.LJ 607 Kartar Singh. 18 Cr.LJ 966 Kadir 29 Cr.LJ 212 Taj Muhammad.

Intention. Erroneous statement not intentional but result of inadvertence held, no offence committed. PLD 1957 Pesh. 142 Aqil Hussain Shah.

" is an essential ingredient for an offence under section 193, Penal Code 12 Cr.LJ 265 Ratan Singh v. Emp.

Offence complete as soon as fabrication done. The offence is complete as soon as fabrication is done if the evidence is intended to be used at any stage of a judicial proceedings. PLD 1960 Dac. 19 Guindera Nath Biswas v. Maqbul Hussain.

Lahore High Court Rules and Orders. Every case of perjury should be brought to the notice of the District Magistrate and D.M. will decide whether a prosecution should be instituted. The Court before which the offence was committed cannot try the offence itself. When a witness makes  false statement in commitment proceedings the committing Magistrate should leave the matter in the hands of the Sessions Judge, or should at least refrain from taking any steps until case is decided by the Court of Sessions. For offence of perjury deterrent sentence should be imposed. (L.H.C. Rules and Orders (1928) Vol. II Chapter XXII Page 114).

Whether desirable to proceed for perjury. Where complainant said that he had been acquitted in a case (although wrongly) not with a view to add anything to the gravity of the offence, but with a view apparently to appropriate some amount of credibility to himself, and the statement did not hamper the course of justice, held, that the prosecution of the witness would not advance the ends of justice. It was one of the routine statements which are made by almost every witness. 47 Cr.LJ 177 Batakrishna Pal v. Emp. 221 IC 407.

Prosecution whether expedient in the interest of justice. Prosecution for perjury is only to be launched when it is expedient in the interest of justice and not to satisfy private vengeance. (SC) 1970 SCMR 10 Ch. Feroz Din v. Dr. K.M. Munir.

Prosecution expedient in the interest of justice. Witnesses should not be prosecuted because they give evidence which is contradictory at two different stages of a case i.e., before a magistrate and a Sessions Judge. It is only where the Court is expressly of the opinion that it is expedient in the interest of justice that an inquiry should be made into the offence of giving false evidence that an order under section 476, Cr.P.C. can be made. 31 Cr.LJ 373 Kamini Kumar AIR 1929 Cal. 390 = 42 Cr.LJ 446 Suba Singh. AIR 1941 Pat. 165 = 12 Cr. LJ 446.

Prosecution not desirable. Ordinarily prosecution for perjury should not be launched when it will compel a witness to adhere to his original lie under penalty of a prosecution if he tells the truth. 1901 PR No. 21 of 1901 Dad v. Emp. 1899 PR No. 3 of 1899 Santa Singh v. Emp.

Prosecution not necessary. False statement in Court not material to decision of the case, held, complaint against witness of perjury is not necessary. PLD 1962 Pesh. 48 Muhammad Jan.

Proceedings-when to be instituted. Proceedings under section 476, Cr.P.C. should not be taken against a person for giving false evidence of fabricating a false document under section 193, Penal Code till the case in which said evidence was given or such document was used, has been finally decided. 3 Cr.LJ 393 Gendan Singh v. Emp. Also Lahore High Court Rules and Orders.

Proceedings u/S. 182 or u/S. 211, (PPC during pendency of complaint, would be unwarranted. It is only after disposal of direct complaint as false that such proceedings could be initiated. Proceedings quashed u/S. 561-A, Cr.P.C. NLR 1991 Cr. 5. Muhammad Nawaz.

Prosecution for perjury not to be ordered before close of proceedings in case in which false evidence is given. Cognizance of offence by Civil Judge against plaintiff for false averments in plaint during pendency of suit unwarranted. NLR 1988 Cr. 642 Mst. Zohra.

Perjury to be punished by trial Court u/S. 476, Cr.P.C. & Sec. 195, PPC. Deterrent punishment to be awarded. PLD 1985 SC 257. Muhammad Aslam.

Prosecution when to be commenced. Where it is evident that the Criminal case is calculated to hamper the fair trial in a Civil Court, no prosecution for perjury should be lodged till the case is decided by the Civil Court. 41 Cr.LJ 182. Rewashankar Mool Chand. AIR 1940 Nag. 72.

Prompt action. When witness is guilty of perjury the Court must take prompt and adequate action in absence of reasons to the contrary. PLD 1963 Lah. 20. Manzur Hussain.

Complaint. Cognizance of the offence cannot be taken except on complaint as provided under section 476, Cr.P.C. PLD 1963 Kar. 719 Mooso.

Prosecution by Special Judge. Special Judge directed prosecution of the accused under section 193, PPC. Held, order unauthorised and without jurisdiction. PLD 1965 Kar. 362. Shaukat Hussain.

Powers of appellate Court. It is unusual and not a proper procedure for an appellate Court which did not hear the evidence to order a prosecution for perjury in the lower Court on materials which were not before that Court and which the witness had no opportunity of explaining while in the box. 4 Cr.LJ 219 = 10 CWN 1091 Lok Nath Sahi.

Caution by the Judge. Where a Judge trying the case cautions a witness that he is making a false statement and the witness after the caution admits that his statement was false and corrects it, it is not desirable to subject such a witness to prosecution for perjury. 26 Cr.LJ 1460 Faqir Chand v. Emp. AIR 1925 Lah. 646.

Electoral Rolls revising authority is not a Court within the meaning of section 195, Cr.P.C. No sanction for prosecution is required when offence committed before such authority. (DB) PLD 1955 Sindh 179. Ahmed Sultan v. Crown.

Coercion by Police Officer. Where certain witness gave false evidence and then pleaded that they were coerced to do so by a Police Inspector, it was held that they were guilty as there was no proof of instant death as provided by section 94, Penal Code. (1868) 10 Suther Lan's Weekly Reporter Calcutta (Cr.) 48. Sonoo.

Non-administrtion of oath before recording evidence is curable u/S. 13 of the Oaths Act, therefore conviction u/S. 193, PPC on evidence without oath is proper. NLR 1990 Cr. 501 Muhammad Ishaq.

Perjury by a witness in Court, Federal Shariat Court referred the case to the trial Court for action. Such persons deserve exemplary punishment. PLJ 1989 FS 78. Syed Hasan Abbas etc.

Where confession was made in case of perjury and guilt admitted the Court took lenient view by reducing the sentence to already undergone and fine reduced. PLJ 1993 Cr.C. (SAC) 82, Islam-ud-Din.

Witness convicted for perjury cannot be regarded as competent witness unless he has repented after the incident and mended his ways. PLJ 1994 Cr.C. (Kar.) 265 (DB), Deedar Ali.