# IPC Section 485: Making or possession of any instrument for counterfeiting a property mark.

## IPC Section 485: Making or Possession of Instrument for Counterfeiting a Property Mark – A Detailed Analysis  
  
Section 485 of the Indian Penal Code (IPC) deals with the offence of making or possessing instruments or materials intended for the counterfeiting of property marks. This provision takes a proactive approach to combating counterfeiting by criminalizing the preparatory stages of the crime. It recognizes that the creation and possession of tools specifically designed for counterfeiting represent a clear intent to commit fraud and pose a significant threat to the integrity of property marks. By addressing this early stage, Section 485 aims to prevent counterfeiting activities before they occur and deter individuals from engaging in such illicit practices.  
  
\*\*The Text of Section 485:\*\*  
  
"Whoever makes or has in his possession any die, plate or other instrument, or any material, for the purpose of counterfeiting any property mark, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine."  
  
\*\*Breaking Down the Elements of the Offence:\*\*  
  
1. \*\*Making or Possession:\*\* The section covers both the \*making\* and the \*possession\* of counterfeiting instruments or materials. This dual approach ensures that individuals involved in any stage of the preparatory process can be held accountable. "Making" encompasses the creation, fabrication, or assembly of the tools, while "possession" refers to having control or custody over them, even if the individual did not create them personally.  
  
2. \*\*Die, Plate, or Other Instrument:\*\* The section specifically mentions "die," "plate," or "other instrument." These terms encompass tools and devices typically used in the process of creating counterfeit marks. Dies and plates are commonly employed for stamping or embossing marks, while "other instrument" broadens the scope to include any tool or device specifically designed or adapted for counterfeiting purposes. This could include printing equipment, engraving tools, or specialized software.  
  
3. \*\*Material:\*\* Beyond instruments, the section also covers the possession of "material" intended for counterfeiting. This includes substances, inks, dyes, or other materials specifically designed or adapted for creating counterfeit marks. This broadens the scope of the section beyond just the tools used and includes the essential components required for the counterfeiting process.  
  
4. \*\*Purpose of Counterfeiting:\*\* A crucial element of the offence is the \*purpose\* for which the instrument or material is made or possessed. The prosecution must demonstrate that the intended use is for counterfeiting a property mark. Mere possession of a die or plate, for instance, is not sufficient; the intent to use it for counterfeiting must be established. This intent can be inferred from the circumstances, such as the nature of the instrument or material, the quantity possessed, or other evidence suggesting a connection to counterfeiting activities.  
  
5. \*\*Property Mark:\*\* The target of the counterfeiting activity must be a "property mark." As defined in related sections, this refers to a mark used on goods to indicate their origin, manufacturer, or other characteristics, including trademarks, logos, and other distinctive identifiers.  
  
6. \*\*Punishment:\*\* Section 485 prescribes a punishment of imprisonment of either description (rigorous or simple) for a term which may extend to three years, along with a fine. This relatively high penalty reflects the seriousness of possessing the means to counterfeit property marks and the potential damage this poses to businesses and consumers.  
  
  
\*\*Key Considerations:\*\*  
  
\* \*\*Proactive Approach:\*\* Section 485 takes a proactive approach to preventing counterfeiting by criminalizing the possession of counterfeiting tools and materials, even before any actual counterfeiting takes place.  
  
\* \*\*Intent is Crucial:\*\* The prosecution must prove that the instruments or materials were made or possessed specifically for the \*purpose\* of counterfeiting. This requires establishing the intent behind the possession, which can be inferred from circumstantial evidence.  
  
\* \*\*Relationship to Other Counterfeiting Offences:\*\* Section 485 is often used in conjunction with other sections related to counterfeiting, such as Sections 479, 480, 481, 482, 483, and 484. Charges under multiple sections might be filed depending on the specific circumstances of the case.  
  
  
\*\*Conclusion:\*\*  
  
Section 485 of the IPC plays a crucial role in combating counterfeiting by targeting the preparatory stages of the crime. By criminalizing the making or possession of instruments and materials intended for counterfeiting, it aims to prevent counterfeiting activities before they occur and deter individuals from engaging in such illegal practices. The section's focus on the \*purpose\* of possession ensures that innocent individuals are not penalized while effectively targeting those with a clear intent to counterfeit property marks. This proactive approach, coupled with the relatively stringent punishment, contributes to a more secure environment for intellectual property rights and helps protect consumers and businesses from the harmful effects of counterfeit goods. Section 485 strengthens the overall framework of intellectual property protection in India and contributes to a fairer and more transparent marketplace.