

quashed in respect of accused persons who preferred special leave petition and also in respect of those who did not file a petition.^{50.}

[s 467.2] CASES.—

Where the allegation was that a company, acting through its directors in concert with the chartered accountants and some other persons: (i) conceived a criminal conspiracy and executed it by forging and fabricating a number of documents, like photographs of old machines, purchase orders and invoices showing purchase of machinery in order to support their claim to avail hire-purchase loan from Bank; (ii) on the strength of these false documents, bank parted with the money by issuing pay orders and demand drafts in favour of the Company; and (iii) the accused opened six fictitious accounts in the banks to encash the pay orders/bank drafts issued by Bank in favour of the suppliers of machines, thereby directly rotating back the loan amount to the borrower from these fictitious accounts, and in the process committed a systematic fraud on the Bank and obtained pecuniary advantage for themselves. Precise details of all the fictitious accounts as also the further flow of money realized on encashment of demand drafts/pay orders have been incorporated in the charge sheet additionally, by allegedly claiming depreciation on the new machinery, which was never purchased, on the basis of forged invoices, etc.; the accused cheated the public exchequer as well. The Supreme Court held that proceedings are not liable to be quashed merely because dues of bank have been paid up.^{51.}

A deed of agreement for purchase of shares is not a valuable security.^{52.} A person who received money from a postman under a false representation that he was the payee when in fact he was not, and signed the postal acknowledgement in the name of the payee, was held to have committed an offence under this section.^{53.} Where the accused fraudulently brought into existence a registered sale deed, said to have been executed by the widow of a person, intending to deceive and also to injure the reversioners of that person, it was held that they were guilty under this section.^{54.} Where the accused falsely identified a person before the Oaths Commissioner as the deponent and the said person affixed his thumb impression on the document and it was also apparent that the document could not even become an affidavit without identification of the deponent by the accused, it was held that the accused abettor having been present at the time of the commission of the offence of impersonation he was guilty under [section 467](#) read with [section 114, IPC, 1860](#).^{55.} A bank draft is a security for the purposes of this section and the bank manager signing a forged draft is guilty of this offence.^{56.} Making out cheques for withdrawing money for official purposes and obtaining the signature of the signing officer under that pretence was held to be punishable offence under this section.^{57.}

[s 467.3] Bar under section 195(1)(b)(ii) of the [Code of Criminal Procedure, 1973 \(Cr PC, 1973\)](#).—

Section 195(1)(b)(ii), [Cr PC](#) mandates that no court shall take cognizance of any offence described in section 463, or punishable under sections 471, 475 or 476, of [IPC, 1860](#), when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any court, except on the complaint in writing of that court, or of some other court to which that court is subordinate. It contemplates a situation where offences enumerated therein are committed with respect to a document subsequent to its production or giving in evidence in a proceeding in any court.^{58.} The petitioner stood before the Court as surety in favour of

the accused person and filed the affidavit, bail declaration form and title document of the Land record-of-rights book before the Court. It was further revealed that the petitioner filed the false declaration as well as false affidavit in support of the said declaration. It was further found that both the documents, i.e., the declaration form as well the affidavit of accused were prepared just before production of them in the Court. Admittedly, the offence was committed before the documents were filed in the Court. Section 195(1)(b)(ii) of Cr PC would be attracted only when the offences enumerated in the said provision have been committed with respect to a document after it had been produced or given in evidence in a proceeding in any court, i.e., during the time when the document was in *custodia legis*. This being the settled position of law, there appears to be no justification in quashing the prosecution of the petitioner-accused on the ground that provisions of section 195(1)(b)(ii) are applicable.⁵⁹

46. Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

47. See *Sardul Singh v State of Haryana*, 1992 Cr LJ 354 (P&H).

48. *Suresh Hingorani v State of Haryana*, 2013 (1) Scale 225 [LNIND 2013 SC 21] : JT 2013 (8) SC 66 [LNIND 2013 SC 21] .

49. *Shiv Charan v State of Rajasthan*, 2012 Cr LJ 211 (Raj).

50. *Ashok Chaturvedi v Shitual H Chanchani*, 1998 Cr LJ 4091 : AIR 1998 SC 2796 [LNIND 1998 SC 751] .

51. *Sushil Suri v CBI*, (2011) 5 SCC 708 [LNIND 2011 SC 494] : AIR 2011 SC 1713 [LNIND 2011 SC 494] .

52. *AK Khosla v TS Venkatesan*, 1992 Cr LJ 1448 (Cal).

53. *Jogidas v State*, (1921) 24 Bom LR 99 ; *Sanjay Gaikwad v State of Maharashtra*, 2013 Cr LJ (NOC) 304 —using genuine special adhesive stamps fraudulently obtained for making false document— offence is under section 468 not under section 256–259 IPC.

54. *Ganga Dibya*, (1942) 22 Pat 95.

55. *Calcutta Singh*, 1978 Cr LJ 477 (P&H).

56. *Adithela Immanuel Raju v State of Orissa*, 1992 Cr LJ 243 ; *State of Haryana v Parmanand*, (1995) 1 Cr LJ 396 , embezzlement by forging entries in records, but neither signature nor handwriting proved by expert evidence, conviction on the statement of a sole witness not justified.

57. *State of Punjab v Baj Singh*, (1995) 2 Cr LJ 1311 (P&H); *Joginder Pal Dhiman v UOI*, 2002 Cr LJ 677 (HP), bank manager defrauded bank by forging amounts on FDRs and issuing drafts in his own and wife's name. But on being detected he returned the whole amount involved. Sentence reduced to one year and amount of fine maintained.

58. *Iqbal Singh Marwah v Meenakshi Marwah*, (2005) 4 SCC 370 [LNIND 2005 SC 261] ; *Mahesh Chand Sharma v State of UP*, AIR 2010 SC 812 [LNIND 2009 SC 1740] : (2009) 15 SCC 519 [LNIND 2009 SC 1740] ; *CP Subhash v Inspector of Police Chennai*, 2013 Cr LJ 3684 : JT 2013 (2) SC 270 [LNIND 2013 SC 74] , sale deed had not been forged while in custody of court, bar under section 195 not applicable.

59. *Jagannath Singh v State of MP*, 2011 Cr LJ 3008 (MP).

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CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

[s 468] Forgery for purpose of cheating.

Whoever commits forgery, intending that the ^{60.}[document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

COMMENT.—

This section does not require that the accused should actually commit the offence of cheating. What is material is the intention or purpose of the offender in committing forgery.^{61.} Where documents had been forged and fabricated only to be used as genuine to make fraudulent and illegal claim over land owned by complainant, the Supreme Court held that it cannot be held that respondents were not makers of documents or that filing of civil suit based on same would not constitute an offence.^{62.} The Supreme Court has expressed the opinion that the conduct of an Advocate's clerk in forging the signature of another advocate on a surety bond and forging some endorsements for identification and attestation, would not constitute an offence under this section and that the conviction should have been under section 465.^{63.}

[s 468.1] Banking and other frauds.—

Where the accused, being the BDO, who was authorised to recommend the sanctioning of housing loans to the villagers misappropriated the money of the bank by availing loans in their names by forging their signatures, he was held to be guilty based on the evidence of the villagers that they did not apply under the scheme.^{64.}

[s 468.2] Signing differently in *vakalatnama*.—

Where it was alleged that in order to cheat the Complainant the accused signed in his *vakalathnama* differently from his signatures available in his income tax returns, the Court quashed the complaint as neither the Complainant has alleged any 'forgery' by the petitioners causing any damage, or injury to the public nor to any person, nor to cause any person to part with property, nor to enter into any express or implied contract, nor with intent to commit fraud to any person or the Complainant in particular.^{65.}

60. Subs. by The [Information Technology Act](#) (Act 21 of 2000) for the words "document forged", w.e.f. 17 October 2000. The words "electronic record" have been defined in section 29A.
61. *Shivaji Narayan*, (1970) 73 Bom LR 215 . *Mallinath Ambanna Shedjale v Purushottam Vasudeo Somshetty*, 2002 Cr LJ 506 (Bom), forgery of signature on partnership registration form, the mere fact that the handwriting expert could not positively say who committed the forgery, the accused partners could not be acquitted. *Chandu Mahto v State of Bihar*, 2000 Cr LJ 4472 (Pat), forgery of signature for operating colleague's PF Account. Held, guilty under sections 120-B, 419, 420, 468, 471 and 477-A. *Srinivas Rao v State of AP*, 2002 Cr LJ 3880 (AP), the offence took place about nine years ago. The sentence of six months was reduced to two months. *Saroj Kumar Sahoo v State of Orissa*, 2003 Cr LJ 1872 , allegation that the officers of the State Financial Corporation and accused persons entered into a conspiracy to cheat the owner of the unit of disposing it of at a lower value than the market price. The allegation was not proved on evidence.
62. *CP Subhash v Inspector of Police Chennai*, 2013 Cr LJ 3684 : JT 2013 (2) SC 270 [LNIND 2013 SC 74] ; *Siba Prasad Satpathy v Republic of India*, 2011 Cr LJ 3656 .
63. *Sharvan Kumar v State of UP*, AIR 1985 SC 1663 [LNIND 1985 SC 231] : (1985) 3 SCC 658 [LNIND 1985 SC 231] : 1985 SCC (Cr) 437. A complaint by the Court concerned is necessary for cognizance of this offence. See *Sardul Singh v State of Haryana*, 1992 Cr LJ 354 (P&H) vide section 195, Cr PC, 1973. *Surender Singh v State*, 2013 Cr LJ 3211 (Del), allegation of using fake number plates, not proved. Mere recovery of fake number plate does not establish guilt of appellant that he intended to cheat police official, accused acquitted.
64. *Sukh Ram v State of HP*, 2016 Cr LJ 4146 (SC) : 2016 (7) Scale 354 .
65. *Padam Chand v State of Bihar*, 2016 Cr LJ 4998 (Pat) : 2016 (3) PLJR 258 .

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[s 469] Forgery for purpose of harming reputation.

Whoever commits forgery, ⁶⁶[intending that the document or electronic record forged] shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

⁶⁶. Subs. by The [Information Technology Act](#) (Act 21 of 2000), section 91 and First Sch for the words "intending that the document forged", w.e.f. 17 October 2000. The words "electronic record" have been defined in section 29A.

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[s 470] Forged ****[document or electronic record]**.

A false **67.**[document or electronic record] made wholly or in part by forgery is designated "a forged **68.**[document or electronic record]".

COMMENT.—

A person who forges a document or electronic record for the purpose of harming the reputation of another and thereby commits an offence under section 500 (defamation) commits an offence also under this section.

67. Subs. by The [Information Technology Act](#) (Act 21 of 2000), section 91 and First Sch for the words "document", w.e.f. 17 October 2000. The words "electronic record" have been defined in section 29A.

68. Subs. by Act 21 of 2000, section 91 and Sch I, for "document" (w.e.f. 17 October 2000).

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[s 471] Using as genuine a forged *[document or electronic record].**

Whoever fraudulently or dishonestly uses as genuine ¹ any ^{69.} [document or electronic record] which he knows or has reason to believe to be a forged ^{70.} [document or electronic record], ² shall be punished in the same manner as if he had forged such ^{71.} [document or electronic record].

COMMENT.—

What this section requires is the use as genuine of any document which is known or believed to be a forged document; it does not lay down that such use can only occur when the original itself is produced, for the section does not require the production of the original.^{72.}

[s 471.1] Ingredients.—

There must be—

1. Fraudulent or dishonest use of a document as genuine.
2. The person using it must have knowledge or reason to believe that the document is a forged one.

1. '**Uses as genuine**'.— Accused registered various documents relating to a project without verifying the credentials of the purchaser and seller and without examining that the land covered by the sale deeds was in existence or not or the land belongs to the State Government. Documents were *prima facie* found to be forged so as to get the benefit of the package which was meant for the project affected persons/oustees displaced from the land. Order of High Court quashing the proceedings was held liable to be set aside.^{73.}

[s 471.2] Sections 467 and 471.—

Where there is forgery of a document purporting to be a valuable security as defined in section 471 becomes an offence under section 471 when it is used as genuine. The Supreme Court observed that the basic ingredient of both the offences is that there should be "forgery" as defined in section 463 and forgery in turn depends upon creation of a "false document" as defined in section 464. If there is no "false document" as defined in section 464, offences under sections 467 and 471 are not made out. Further the mere execution of a sale deed by claiming that property being sold was executant's property did not amount to commission of offences under sections 467 and 471 even if title to property did not vest in the executant. This was for the reason that no "false document" as defined in section 464, was created.^{74.}

2. 'Knows or has reason to believe to be a forged document'.—These words are of general application.⁷⁵ Where it was not shown that the accused had knowledge of the forged nature of the cheque⁷⁶ or the lottery ticket⁷⁷ which he used as genuine he cannot be convicted under [sections 467 and 471, IPC, 1860](#).

"Knowledge" is an awareness on the part of the person concerned indicating his state of mind. Reason to believe is another fact of the state of mind. It is not the same thing as "suspicion" or "doubt". The mere seeing also cannot be equated to believing. "Reason to believe" is a higher level of the state of mind. Likewise knowledge will be slightly on a higher plane than reason to believe. A person can be supposed to know when there is a direct appeal to his senses and a person is presumed to have reason to believe if he has sufficient cause to believe the same. In substance, what is meant is that a reason to believe requires that a reasonable man would, by probable reasoning conclude or infer regarding the nature of the thing concerned. "Knowledge" and "reason to believe" has to be deduced from the various circumstances of the case.⁷⁸ The section is intended to apply to persons other than the forger himself but the forger is not excluded from the operation of the section. It is not required that the person forging the document must necessarily be convicted along with the person using the document.⁷⁹

[s 471.3] Compounding.—

Where there is no chance of recording a conviction insofar as the accused is concerned and the entire exercise of trial is destined to be an exercise in futility, the High Court by exercising the inherent power under [section 482 Cr PC, 1973](#), even in offences which are not compoundable under section 320 may quash the prosecution.⁸⁰

[s 471.4] Punishment.—

in *Bank of India v Yeturi Maredi Shanker Rao*,⁸¹ the Supreme Court confirmed the sentence of nine months of rigorous imprisonment to a person who had knowledge of the forged signatures on withdrawal forms and who used them to affect withdrawal of money. A forged will was prepared and executed in favour of the accused, but he could not draw any benefit under it, nor it was acted upon in any civil proceedings. He had faced trial for more than 26 years. He was in jail for more than seven months. His sentence was accordingly reduced to the period already undergone.⁸² The accused filed a false marks sheet and gained admission. His past record was good. He had already lost a job. The sentence of imprisonment was reduced to the period already undergone.⁸³

[s 471.5] CASE.—

Accused while working as a lower division clerk in the office of the Deputy Superintendent of Police had temporarily misappropriated an amount of Rs. 1,839 and made false entry in the record. Admittedly the sum had been deposited in the post office before the due date and that no loss had been caused to the department. Offence alleged under [IPC, 1860](#), against the accused are trivial in nature and have caused no harm and in fact no offences in the eye of law. The benefit of [section 95, IPC](#) is available to the appellant.⁸⁴

[s 471.6] Certificate.—

Where the accused applied to the Superintendent of Police for employment in the Police force, and in support of his application presented two certificates which he knew to be false, it was held that he was guilty of offences under sections 463 and 471.⁸⁵ Where the accused used a forged certificate of competency as an engine-room first Tindal, he was held guilty under sections 471 and 463.⁸⁶ With a view to qualify for appearance at the competitive P.C.S examination the accused presented a certified copy of the certificate granted to him by the University at his Matriculation examination, in which the date of birth had been altered from "5 January 1901" to "15 January 1904". It was held that he was guilty of an offence under this section inasmuch as the document presented, being a false document, was used with intent to cause damage and injury to the other candidates in the competitive examination for P.C.S. and to support his claim to appear.⁸⁷ Where a forged certificate of age was filed by an employee for the purpose of getting his superannuation postponed by two years, his conviction under sections 471, 420 and 511 was upheld. It was immaterial that the employer had not acted upon the certificate.⁸⁸

[s 471.7] Passport.—

A person who forges a passport and uses it as genuine to get entry into India is guilty under section 471 and section 467.⁸⁹ Where unauthorised endorsements were made in a passport with a view to helping the person having his photograph on the passport to travel to countries to which he was not entitled to go, such endorsements were made dishonestly and fraudulently and, therefore, the use of such a passport constituted an offence under [section 471, IPC, 1860](#). Where, however, the very basis of the prosecution case was that the endorsements were in the handwriting of the accused but the expert opinion was hesitant and unsatisfactory, the conviction of the accused could not be sustained.⁹⁰

Where passport alleged to have issued by using the former seal of the passport officer, it is the duty of the investigating officer to find out in whose custody the unused seal was kept and how the accused obtained possession of the same, for using it for committing forgery.⁹¹

[s 471.8] Sanction.—

The offence of cheating under section 420 or for that matter offences relatable to sections 467, 468, 471 and 120B can by no stretch of imagination, by their very nature, be regarded as having been committed by any public servant while acting or purporting to act in discharge of official duty. In such cases, official status only provides an opportunity for commission of the offence.⁹²