

A document made to conceal a previous fraudulent or dishonest act amounts to forgery. But such falsification is not forgery if it is only for the purpose of concealing a previous negligent act.

The following are aggravated forms of the offence of forgery:—

1. Forgery of a record of a Court of Justice or of a register of births, baptism, marriage or burial, or a certificate or authority to institute or defend a suit or a power of attorney (**section 464**).
2. Forgery of a valuable security or will (**section 467**).
3. Forgery for the purpose of cheating (**section 468**).
4. Forgery for the purpose of harming the reputation of any person (**section 469**).

Other offences relating to documents are:—

1. Making or possessing a counterfeit seal, plate, etc., with intent to commit forgery punishable under section 467 (**section 472**).
2. Same as above when punishable otherwise (**section 473**).
3. Possession of a valuable security or will, known to be forged, with intent to use it as genuine (**section 474**).
4. Counterfeiting a device or mark used for authenticating any document described in **section 467**, or possessing counterfeit marked material (**section 475**).
5. Same as above when the documents are other than those described in section 467 (**section 476**).
6. Fraudulent cancellation, destruction, defacement or secreting, etc., of a will or an authority, to adopt, or a valuable security (**section 477**).
7. Falsification of accounts by a clerk or officer or servant with intent to defraud (**section 477A**).

Property-mark.

A mark used for denoting that movable property belongs to a particular person is called a 'property-mark' (**section 479**).

A person uses a false property-mark

- (1) if he marks any movable property or goods, or any case, package, or other receptacle containing movable property or goods; or
- (2) uses any case, package or other receptacle, having any marks thereon;
- (3) in a manner reasonably calculated to cause it to be believed that the property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong (**section 481**). [One year, or fine, or both (**section 482**).]

The function of a property-mark to denote certain ownership is not destroyed because any particular property on which it is impressed ceases to be of that ownership.

While trade-mark denotes the manufacture of quality of the goods to which it is attached, property-mark, the ownership of them.

The following offences relate to counterfeiting any property-mark used by a person:—

1. Counterfeiting any property-mark used by another (**section 483**).
2. Counterfeiting a mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that property is of a particular quality or has passed through a particular office or that it is entitled to any exemption (**section 484**).
3. Making or possession of any instrument for counterfeiting a property-mark (**section 485**).
4. Selling or exposing or possessing for sale or any purpose of trade or manufacture any goods or things with a counterfeit property-mark (**section 486**).
5. Making a false mark upon any receptacle containing goods (unless without intent to defraud) (**section 487**).
6. Making use of any false mark (unless without intent to defraud) (**section 488**).
7. Tampering with property-mark with intent to cause injury (**section 489**).

There are five offences relating to currency-notes and bank-notes.—

Currency-notes and bank-notes.

1. Counterfeiting currency-notes or bank-notes (section 489A)
2. Selling, buying, or using as genuine forged or counterfeit currency-notes or bank-notes knowing the same to be forged or counterfeit (**section 489B**).
3. Possession of forged or counterfeit currency-notes or bank-notes, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine (**section 489C**). Possession and knowledge that the currency notes in question were counterfeit are both necessary. The section is not confined to Indian currency notes alone. *K Hashim v State of TN*, (2005) 1 SCC 237 [LNIND 2004 SC 1142].
4. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes (**section 489D**). It is not necessary that the machinery for counterfeiting found in possession of the accused should be the whole set required for counterfeiting. *K Hashim v State of TN*, (2005) 1 SCC 237 [LNIND 2004 SC 1142].
5. Making or using documents resembling currency-notes or bank-notes (**section 489E**).

The expression "currency-notes" or "bank-notes" would include such notes of a foreign country. In other words, foreign currency would also be within the mischief of these provisions.

Leading case:—State of Kerala v Mathai Verghese, (1986) 4 SCC 746 [LNIND 1986 SC 461].

Contract of service. Chapter XIX.

Chapter XIX treats of criminal breach of contracts of service.

The only case in which the Code now punishes a breach of contract is the following:—

Voluntarily omitting to perform a lawful contract to attend on or supply the wants of a child, or an insane or a sick person, who is incapable of providing for his own safety or of supplying his own wants (**section 491**). [Three months, or Rs. 200, or both.]

Ordinary servants, such as cooks, do not come within the purview of this section.

Marriage. Chapter XX.

Chapter XX deals with offences relating to marriage.

The following two provisions relate to mock or invalid marriages:—

1. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage (**section 493**). [Ten years and fine.]
2. Dishonestly or fraudulently going through a marriage ceremony knowing that no lawful marriage is thereby created (**section 496**). [Seven years and fine.]

The latter offence differs from the former in the fact that in it the ceremony is gone through, which is valid on the face of it but invalid for some reason known to one party, or the other. The former section applies to deception practised by a man on a woman; the latter applies to an offence by a man as well as by a woman.

Bigamy.

A person commits 'bigamy' if that person

- (1) having a husband or a wife living,
- (2) marries in any case in which such marriage is void,
- (3) by reason of its taking place during the life of such husband or wife (**section 494**). [Seven years and fine.] If the former marriage is concealed from the person with whom the subsequent marriage is contracted, the punishment is ten years and fine (**section 495**).

There are two exceptions in which the second marriage is not an offence—

- (1) When the first marriage has been declared void by a Court of competent jurisdiction.
- (2) When the husband or wife has been continually absent or not heard of for seven years, provided that this fact be disclosed to the person with whom the second marriage is contracted.

This section applies to Mohammedan women but not to men of that community and to Hindus, Christians and Parsis of either sex.

The first marriage must be a valid marriage. But a Mohammedan girl has the option, if Shia, to ratify, or if Sunni, to cancel, her marriage on reaching the age of puberty if a person other than her father or grand-father had given her in marriage.

If the marriage is not a valid marriage according to the law applicable to the parties, no question of its being void by reason of its taking place during the life time of the husband or the wife of the person arises and this section does not apply. Admission of marriage by the accused is not evidence of it in a bigamy case; the second marriage as a fact and the essential ceremonies constituting it, must be proved. The Courts are not now so emphatic about proof of ceremonies. *Indu Bhagya Natekar v BP Natekar*.

Conversion of a Hindu wife to Mohammedanism or Christianity does not dissolve her marriage with her Hindu husband and if she marries a Mohammedan or a Christian she commits bigamy.

Leading cases:—R v Ram Kumari, R v Ganga; R v Millard; Bhaurao Shankar, Kanwal Ram.

It appears, however, that a Christian cannot by embracing Mohammedanism marry a second time during the lifetime of his first wife. He cannot cast off to the winds a contractual obligation by his own act.

The rigour of the second exception was somewhat modified in *Tolson's* case, which lays down that if the second marriage takes place *within* seven years under a *bona fide* belief based on reasonable grounds that the former consort was dead, no offence would be committed.

Adultery.

A person commits adultery, if he

- (1) has sexual intercourse with a person,
- (2) whom he knows or has reason to believe to be the wife of another man,
- (3) without the consent or connivance of that man,
- (4) such sexual intercourse not amounting to the offence of rape (**section 497**). [Five years, or fine, or both.]

Leading case:—Joseph Shine v UOI (holding section 497 unconstitutional).

Taking or enticing away or concealing or detaining a woman, knowing or having reason to believe her to be married, from her husband, in order that she may have illicit intercourse with any man is punishable (**section 498**). [Two years, or fine, or both.]

Cruelty to married woman.—Husband or relative of husband of a woman subjecting her to cruelty is liable to be punished with imprisonment for a term which may extend to three years and shall also be liable to fine (**section 498A**). This Chapter [Chapter XX-A] and the section have given a new dimension to the concept of cruelty for the purposes of matrimonial remedies and the type of conduct described in the section will be relevant for proving cruelty. Consequence of cruelty which was likely to drive a woman to commit suicide or to cause grave injury or danger to life or limb or health, whether mental or physical, have to be shown for attracting the section. *Noorjahan v State*, (2008) 11 SCC 55 [LNIND 2008 SC 950]. The basic ingredients of section 498A are cruelty and harassment. *Undavalli Narayana Rao v State of AP*, (2009) 14 SCC 588 [LNIND 2009 SC 1515].

Leading case:—Wazir Chand v State of Haryana.

This section has been introduced by [Criminal Law \(Amendment\) Act, 1983](#) (Act 46 of 1983) to combat the vice of dowry deaths. By the same Act section 113A has been added to the [Indian Evidence Act, 1872](#), which enables the Court to draw a presumption regarding abetment of suicide by a married woman if she commits suicide within seven years of her marriage and it is shown that her husband or relative had subjected her to cruelty. A mere demand for dowry is an offence.

Illustrations on the meaning of harassment have been brought in from cases decided under the [English] Protection From Harassment Act, 1997. The various types of conduct which may constitute cruelty has been judicially construed.

Defamation. Chapter XXI.

A person is guilty of 'defamation' if he,

- (1) by words, either (a) spoken, or (b) intended to be read; or
- (2) by signs or visible representations;
- (3) makes or publishes any imputation concerning any person;
- (4) intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person (**section 499**). [Two years simple, or fine, both (**section 500**).]

Defamation may be of a deceased person (**Explanation 1**). It may be concerning a company, an association, or collection of persons (**Explanation 2**). It may be by ironical expressions. It is however necessary to show that this collection of persons is a small determinate body whose identity can be fixed. Advocates as a class cannot therefore be defamed.

The fact of reference to a particular person may be proved by means of the technique of "*innuendo*".

Leading cases:—Manmohan Kalia v Yash. Asha Parekh v State of Bihar.

An imputation harms a person's reputation which, in the estimation of others, directly or indirectly, either

- (1) lowers his moral or intellectual character; or
- (2) lowers his character in respect of his caste or calling, or his credit; or
- (3) causes it to be believed that his body is in a loathsome state, or in a state generally considered disgraceful (**Explanation 4**).

The definition in the Code applies to words as well as writings.

The [IPC, 1860](#), makes no distinction between spoken and written defamation.

The defamatory matter must be published, i.e., communicated to a person other than the one defamed. The person who *makes* the imputation intending to harm the reputation of another, as well as the person who *publishes* it are alike guilty. The publisher need not be the maker of the defamatory matter.

The publisher of a newspaper is responsible for defamatory matter appearing in the newspaper whether he knows it or not. But it will be a good justification to plead if such matter is published in his absence and without his knowledge and the temporary management of the paper was in competent hands. A newspaper published at one place and sent to a subscriber at another will be considered to have been published at the latter place.

Exceptions.

Any of the following defences may be set up against a charge of defamation:—

1. Imputation of any truth which the public good requires to be made or published.
2. Opinion expressed in good faith respecting the conduct of a public servant in the discharge of his duties, or his character so far as it appears in that conduct.
3. Opinion expressed in good faith respecting the conduct of any person touching a public question, or his character so far as it appears in that conduct.
4. Publication of a substantially true report of the proceedings of a court.

Such report cannot be published if the court has prohibited it, or where the subject-matter of the trial is obscene or blasphemous.

5. Opinion expressed in good faith respecting the merits of a case decided in a court; or the conduct of a party, witness or agent concerned therein; or the character of such person so far as it appears in such conduct.

6. Opinion expressed in good faith respecting the merits of a performance submitted by the author to public judgment; or respecting the author's character so far as it appears in such a performance.

7. Censure passed in good faith by a person having lawful authority over another.

8. Accusation preferred in good faith to a duly authorized person.

9. Imputation made in good faith by a person for the protection of his interest, or of any other person, or for the public good.

The privilege of judges, counsels, pleaders, witnesses, and parties comes under this exception. So also, as to statements made in pleadings and reports to superior officers.

JUDGE.—A Judge cannot be prosecuted for defamation for words used by him whilst trying a case in court even though such words are alleged to be false, malicious, and without reasonable cause (*Rama v Subramanya*).

COUNSEL OR PLEADER.—The Madras High Court held in *Sullivan v Norton* that no proceedings can be instituted against a counsel or pleader for uttering words that are defamatory, or are calculated to hurt the feelings of others, or are absolutely devoid of all solid foundation. This case has been doubted in a much later decision in which it was held that in the case of a lawyer good faith is to be presumed until bad faith is proved by proof of private malice when the Court will interfere (*Mir Anwarrudin v Fathim Bai*).

The Bombay High Court has held that so long as an advocate acts on his client's instructions, he has the fullest liberty of speech provided that he did not know or could

not know that they were false. (*Bhaishankar v Wadia*). Where express malice is absent the advocate or pleader is protected (*Re Nagarji; Purshottamdas*).

The Calcutta High Court has held that advocates have no absolute privilege. But unless a counsel or pleader is actuated by improper motives he is protected. If bad faith is proved in putting questions to witnesses he is liable. There must be evidence that he was actuated by improper motives and not by a desire to further his client's interest.

The Patna High Court has held that the privilege is not absolute but qualified and the burden is on the prosecution to prove absence of good faith.

WITNESS.—The Bombay High Court has held in a Full Bench case that relevant statements made by a witness on oath or solemn affirmation in a judicial proceeding are not absolutely privileged on a prosecution for defamation, but are governed by the provisions of this section (*Bai Shanta v Umrao*).

The Calcutta High Court has laid down that such statements should be relevant to the inquiry (*Woolfun Bibi v Jerasat Sheikh*). If a witness voluntarily makes defamatory statements he will be guilty (*Haider Ali v Abru Mia*).

The Madras High Court is of opinion that statements of a witness made in the witness-box are absolutely privileged. If they are false the remedy is by indictment for perjury, and not for defamation (*Manjaya v Shesha Shetti*).

The Allahabad High Court has held in a Full Bench case that a witness can be prosecuted for defamatory statements concerning a person unless he shows that the statements fall under one of the exceptions to this section (*Ganga Prasad*).

The former Chief Court of the Punjab had adopted the view of the Calcutta and the Allahabad High Courts.

The former Nagpur High Court had followed the Bombay, the Calcutta and the Allahabad High Courts and held that a witness is not entitled to absolute privilege (*Chotelal's case*).

PARTY.—The Bombay High Court has held that relevant statements made by an accused are not absolutely protected, but are governed by the provisions of section 499 (*Bai Shanta v Umrao*).

The Madras High Court has held that if an accused puts any question while defending himself, the question cannot be made the subject of a prosecution for defamation (*Hayes v Christian*). Statement in answer to a question by the Court is not absolutely privileged (*Tiruvengada Mudali's case*). If a defamatory statement is made before an officer who is neither a judicial officer nor a court, e.g., a Registration Officer, such a statement is not absolutely privileged. (*Krishnammal's case*).

The Calcutta High Court has ruled in a Full Bench case that a defamatory statement on oath by a party falls within section 499 and is not absolutely privileged (*Satish Chandra Chakravarti v Ram Doyal De*).

The Allahabad High Court holds the view that a suitor is not absolutely privileged.

PLEADING.—Defamatory statements in applications, pleadings and affidavits are not absolutely privileged.

The Bombay High Court has held that statements made in a written statement filed by the accused are not absolutely privileged. According to the Allahabad High Court any statement made in an application in good faith is protected.

The Calcutta and the Patna High Courts have held that defamatory statements in a plaint or an affidavit are not absolutely privileged. But the decisions of the Calcutta High Court are not unanimous on the point whether statements in a complaint to a Magistrate are absolutely privileged or not.

The Madras High Court has in a Full Bench case held that a defamatory statement in a complaint to a Magistrate is not absolutely privileged. (*Triuvengada Mudali's case*).

The former Chief Court of the Punjab had laid down that such statements were not absolutely privileged.

10. Caution intended in good faith for the good of the person to whom it is conveyed or of some person in whom he is interested, or for public good.

Other offences.

The following acts also are made punishable:—

1. Printing or engraving matter known to be defamatory (**section 501**).
2. Sale of printed or engraved substance containing defamatory matter (**section 502**).

Criminal intimidation. Chapter XXII.

A person commits 'criminal intimidation' if he

(1) threatens another with any injury

(a) to his person, reputation or property, or

(b) to the person, or reputation of any one in whom that person is interested,

(2) with intent

(a) to cause alarm to that person, or

(b) to cause that person to do any act which he is not legally bound to do, or omit to do any act which that person is legally entitled to do,

(3) as the means of avoiding the execution of such threat (**section 503**). [Two years, or fine, or both.]

If the threat be to cause (1) death or grievous hurt, (2) the destruction of any property by fire, (3) an offence punishable with death, imprisonment for life, or seven years' imprisonment, then seven years, or fine, or both (**section 506**). [If intimidation is caused by an anonymous communication, then *additional* imprisonment for two years (**section 507**).]

'Criminal intimidation' is closely analogous to 'extortion.' In the former the immediate purpose is to induce the person threatened to do, or abstain from doing, something which he was not legally bound to do or omit; in the latter, the purpose is getting filthy lucre by obtaining property. In 'criminal intimidation' the threat need not produce the effect aimed at nor should it be addressed directly to the person intended to be influenced. If it reaches his ears anyhow the offence is complete.

The following two provisions relate to insult offered to persons other than public servants—

Insult.

(1) Intentional insult with intent to provoke a breach of the peace, or to cause the commission of any offence. (**section 504**).

(2) Uttering any word, or making any sound or gesture, or exhibiting any object, intending to insult the modesty of a woman or intruding upon the privacy of a woman (**section 509**).

Statement conducing to public mischief.

Making, publishing or circulating, any statement, rumour, or report

(1) with intent to cause any officer, soldier, sailor or airman in the Army, Navy or Air Force, to mutiny, or to disregard or fail in his duty, or

(2) with intent to cause fear or alarm to the public whereby any person may be induced to commit an offence against the State or public tranquillity, or

(3) with intent to incite any class of persons to commit any offence against any other class is made punishable (**section 505**). [Three years, or fine, or both.] The offence is not committed if such statement, etc., is *true* and there is no such intent as aforesaid.

Making, publishing or circulating, any statement or report containing alarming news

(1) with intent to create or promote feelings of enmity, hatred or ill will between different groups or communities on grounds of religion, race, place of birth, residence, language, caste or community (**section 505**). [Three years, or fine, or both.]

(2) Aggravated form of the same offence when committed in any place of worship or in any assembly engaged in religious ceremonies (**section 505**). [Five years and fine.]

Divine displeasure.

Act or omission caused by inducing a person to believe that he will be rendered an object of Divine displeasure if he does not do or omit to do the things which it is the object of the offender to cause him to do or omit, is punishable (**section 508**). [One year, or fine, or both.]

Intoxication.

Intoxication alone is not made punishable by the Code. But a person who in a state of intoxication appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person is liable to punishment (**section 510**). [24 hours, or Rs. 10, or both.]

Attempts. Chapter XXVIII.

The last chapter deals with attempts to commit offences. Attempting to commit or causing to be committed an offence, punishable by the Code with imprisonment for life or imprisonment, and in such attempt doing any act *towards the commission of the offence is*—where there is no express provision for the punishment of such attempt—punishable with imprisonment provided for the offence, for a term which may extend to one-half of the imprisonment for life or one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both (**section 511**).

Every commission of a crime has three stages—

- (1) intention to commit it;
- (2) preparation for its commission; and
- (3) a successful attempt.

Mere *intention* to commit a crime, not followed by any act, does not constitute an offence. The will is not to be taken for the deed unless there be some external act which shows that progress has been made in the direction of it or towards maturing and effecting it.

Preparation consists in devising means for the commission of an offence. The section does not punish acts done in the mere stage of preparation. Mere preparation is punishable only when the preparation is to wage war against the Government of India (**section 122**), to commit depredations on the territories of any power at peace with the Government of India (**section 126**), or to commit dacoity (**section 399**).

Attempt is the direct movement towards the commission after the preparations are made. To constitute the offence of attempt there must be an act done with the intention of committing an offence, and for the purpose of committing that offence, and it must be done in attempting the commission of the offence.

It is, however, not necessary to show that it is the last proximate act. It is enough if it is one in a series.

An attempt can only be manifested by acts which would end in the consummation of the offence, but for intervention of circumstances independent of the will of the party. An attempt is punishable even when the offence attempted cannot be committed; as when a person intending to pick another's pocket thrusts his hand into the pocket but finds it empty.

If the *attempt* to commit a crime is successful, then the crime itself is committed; but where the attempt is not followed by the intended consequences, section 511 applies.

Leading cases:—*Abhayanand. Om Prakash. R v Ramsarun. R v Mac Crea. R v Mangesh. R v Peterson. R v Baku.*