

to take out a policy of insurance and the insurer subsequently failed to pay on the happening of the event insured against, it was held that a dishonest intention cannot be inferred from a subsequent failure to fulfil a promise.<sup>488</sup>

It is not necessary that the false pretence should be made in express words; it can be inferred from all the circumstances attending the obtaining of the property,<sup>489</sup> or from conduct.<sup>490</sup> If a person orders out goods on credit promising to pay for them on a particular day knowing that it was impossible for him to pay, this would amount to cheating. But the mere fact that he is in embarrassed circumstances does not lead to such inference.<sup>491</sup>

### **[s 415.6] Cheque discounting facility.—**

The complainant is required to show that accused had fraudulent or dishonest intention at the time of making promise or representation. In the absence of culpable intention at the time of making initial promise, no offence is made out under section 420. In present case, the allowing of cheque discounting facility by bank officials to customers of the bank, without any criminal intent being proved, did not amount to commission of offence, particularly as facility allowed was not contrary to RBI Guidelines. It could not also be said that there was a meeting of minds in a conspiracy to commit an offence, nor an act of corruption could be inferred from transactions between the bank and its customers. The accused officials might have been prosecuted under section 409 but they were not so charged. Their conviction was set aside.<sup>492</sup>

**2. 'Fraudulently or dishonestly induces the person so deceived to deliver any property'.—**The words 'fraudulently' and 'dishonestly' do not govern the whole of the definition of cheating. The section is divided into two parts, the second of which provides for the case of a person who, by deceiving another intentionally, induces the person so deceived to do an act which causes or is likely to cause damage or harm although the deceiver has not acted fraudulently or dishonestly.<sup>493</sup>

**3. 'Or to consent that any person shall retain any property'.—**It is cheating whether a deception causes a person fraudulently or dishonestly to acquire property by delivery, or to retain property already in his possession.

Property does not have to be a thing which has money or market value. Since a passport is a tangible thing and a document of great importance for travel abroad there can be no doubt that it is property within the meaning of this section. Thus where the accused obtained several passports by making false representation to the passport issuing authority they were rightly convicted under [sections 420 and 420/120B, IPC, 1860](#).<sup>494</sup>

**4. 'Intentionally inducing that person to do or omit to do anything which he would not do or omit, etc.'.—**Intention is the gist of the offence. The person cheated must have been intentionally induced to do an act which he would not have done or to omit to do an act which he would have done, owing to the deception practised on him. The intention at the time of the offence and the consequence of the act or omission itself has to be considered.<sup>495</sup> Intent refers to the dominant motive of action, and not to a casual or merely possible result.<sup>496</sup> Where the facts narrated in the complaint revealed a commercial transaction, it was held that such a transaction could not lead to the conclusion of a criminal intention to cheat. The Court said that the crux of this offence is the intention of the accused person.<sup>497</sup>

Sections 415 read with section 420 indicates that fraudulent or dishonest inducement on the part of the accused must be at the inception and not at a subsequent stage. In this case, blank cheques were handed over to the accused during the period 2000–2004 for use of business purposes but the dispute between the parties admittedly arose much after that, i.e., in 2005. Thus, no case for proceeding against the respondent under section 420 is made out. Filling up of the blanks in a cheque by itself would not amount to forgery. A case for proceeding against the respondents under [section 406 IPC, 1860](#) has been made out. A cheque being a property, the same was entrusted to the respondents. If the property has been misappropriated has been used for a purpose for which the same had been handed over, a case under [section 406 IPC, 1860](#) may be found to have been made out. It may be true that even in a proceeding under [section 138 of Negotiable Instruments Act](#), the appellant could raise a defence that the cheques were not meant to be used towards discharge of a lawful liability or a debt, but the same by itself would not mean that in an appropriate case, a complaint petition cannot be allowed to be filed.<sup>498.</sup>

The existence of fraudulent intention at the time of making promise or misrepresentation is a necessary ingredient. The mere failure on the part of the accused to keep up the promise is not sufficient to prove the existence of such intention from the beginning.<sup>499.</sup>

#### **[s 415.7] Fraudulent or dishonest intention to be at the outset.—**

To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise. From his mere failure to keep up the promise subsequently such a culpable intention right at the beginning, that is, when he made the promise cannot be presumed.<sup>500.</sup>

A beverages company entered into a bottling agreement with a bottling company for bottling services for a period of five years, subsequently, however, the beverage company transferred its trade mark to another company to which the bottling agreement was also assigned. But the latter company terminated the agreement. The bottling company filed a complaint for cheating saying that they had spent a huge amount in setting up their bottling unit. The complaint was quashed. There was no arrangement with the beverages company at the time when the complainant was bringing up his unit, nor did the beverages company have any intention of cheating from the start or at any subsequent stage.<sup>501.</sup>

Although it is necessary that there should be misrepresentation from the very beginning, the intention to cheat may in some cases develop at a later stage in the process of formation of the contract. The respondent in this case was a co-sharer in the joint property. The other co-sharers sold it to others representing that they had one-third share in the property when in fact it was not so. It was held that no cheating was practiced in the transaction upon the complaining co-sharer. It was a fraud on others. The complainant could not launch a criminal prosecution against them.<sup>502.</sup>

The illustration (b) provided in [section 415, IPC, 1860](#), very well covers the facts of this case for cheating by the accused. The illustration provides that "*(b) A, by putting a counterfoil mark on an article, intentionally deceives Z into a belief that this article was made in a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article, A cheats.*"<sup>503.</sup>

#### **[s 415.8] Civil and Criminal liability.—**

A distinction must be made between a civil wrong and a criminal wrong. When dispute between the parties constitute only a civil wrong and not a criminal wrong, the Courts would not permit a person to be harassed although no case for taking cognizance of the offence has been made out.<sup>504</sup> The case of breach of trust or cheating is both a civil wrong and a criminal offence, but under certain situations where the act alleged would predominantly be a civil wrong, such an act does not constitute a criminal offence.<sup>505</sup> Sometimes case may apparently look to be of civil nature or may involve a commercial transaction but civil disputes or commercial disputes in certain circumstances may also contain ingredients of criminal offences and such disputes have to be entertained notwithstanding they are also civil disputes.<sup>506</sup>

#### **[s 415.9] Cheating by Misrepresentation as to Encumbrance to Property.—**

It is the intention which is important and not whether a man is under a legal duty to disclose or suppress facts within his knowledge. Therefore, where a person with the intention of causing wrongful loss to another makes a false representation to him or suppresses certain facts, he will be said to have acted dishonestly even if the law does not require him to state the truth. Therefore, the non-disclosure of the previous encumbrances will not affect the rights of the previous mortgagees and will not pass a complete title to the purchaser; the purchaser may nevertheless have been cheated.<sup>507</sup> Where the vendor of immovable property omitted to mention that there was an encumbrance on the property, it was held that he could not be convicted of cheating unless it was shown either that he was asked by the vendee whether the property was encumbered and said it was not, or that he sold the property on the representation that it was unencumbered.<sup>508</sup>

#### **[s 415.10] Disconnection of Electricity and Water by Landlord.—**

The landlord disconnected the electricity and water supply of the tenant. The tenant could not make out that the landlord had the fraudulent intention of deceiving the tenant at the time of entering into the transaction of lease. Thus, there was no possibility of conviction for an offence under section 415.<sup>509</sup>

**5. 'Which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property'.—**The damage must be the direct, natural or probable consequence of the induced act. The resulting damage or likelihood of damage may not be within the actual contemplation of the accused when the deceit was practised. The person deceived must have acted under the influence of deceit, and the damage must not be too remote.<sup>510</sup> The use of the expression "cause" in this section postulates a direct and proximate casual connection between the act or omission and the harm and damage to the victim.<sup>511</sup>

It is necessary that the harm should be caused to the person deceived. Damage or harm in mind covers both, injury to mental faculties or mental pain or anguish.<sup>512</sup> Where the accused falsely identified a person before the Oaths Commissioner and thus induced him to attest an affidavit, it was held that no offence under [section 419, IPC, 1860](#), was committed as the Oaths Commissioner did not suffer any harm in his body, mind, reputation or property.<sup>513</sup>

#### **[s 415.11] Explanation.—**

The Explanation refers to the actual deception itself and not to the concealment of a deception by someone else. For the purposes of this section the concealment of fact need not be illegal if it is dishonest.<sup>514.</sup>

### **[s 415.12] Trade mark.—**

The Madras High Court has held that the infringement of a trade mark may constitute the offence of cheating and, therefore, the FIR for the offence was not to be quashed.<sup>515.</sup>

*Selling property having no right to do so.*—Where property is sold by a person knowing that it does not belong to him, it was held that he defrauded the purchaser. The latter could prosecute him under section 415, but no third person could do so.<sup>516.</sup>

The offence of cheating need not necessarily relate to property. It can also partake the nature of personation. The accused in this case palmed off his sister as belonging to a higher caste with the object of getting her married to the petitioner, a person of higher caste. It was held that the offence fell under the second part of the definition.<sup>517.</sup>

### **[s 415.13] Prosecution of Company.—**

In the case of [Penal Code](#) offences, for example under [section 420 of the IPC, 1860](#), for cheating and dishonestly inducing delivery of property, the punishment prescribed is imprisonment of either description for a term which may extend to seven years and shall also be liable to fine; and for the offence under section 417, that is, simple cheating, the punishment prescribed is imprisonment of either description for a term which may extend to one year or with fine or with both. If the appellants' plea is accepted then for the offence under [section 417 IPC, 1860](#), which is an offence of minor nature, a company could be prosecuted and punished with fine whereas for the offence under section 420, which is an aggravated form of cheating by which the victim is dishonestly induced to deliver property, the company cannot be prosecuted as there is a mandatory sentence of imprisonment. There is no immunity to the companies from prosecution merely because the prosecution is in respect of offences for which the punishment prescribed is mandatory imprisonment.<sup>518.</sup> A corporation is virtually in the same position as any individual and may be convicted of common law as well as statutory offences including those requiring *mens rea*. The criminal liability of a corporation would arise when an offence is committed in relation to the business of the corporation by a person or body of persons in control of its affairs. Companies and corporate houses can no longer claim immunity from criminal prosecution on ground that they are incapable of possessing necessary *mens rea*.<sup>519.</sup> Since, the majority of the [Constitution](#) Bench ruled in *Standard Chartered Bank v Directorate of Enforcement*,<sup>520.</sup> that the company can be prosecuted even in a case where the Court can impose substantive sentence as also fine, and in such case only fine can be imposed on the corporate body.<sup>521.</sup>

### **[s 415.14] Directors of Company.—**

The [Penal Code](#) does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company when the accused is the Company. The learned Magistrate failed to pose unto himself the correct question, viz.,

as to whether the complaint petition, even if given face value and taken to be correct in its entirety, would lead to the conclusion that the respondents herein were personally liable for any offence. The Bank is a body corporate. Vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the Statute. Statutes indisputably must contain provision fixing such vicarious liabilities. Even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability.<sup>522.</sup>

#### **[s 415.15] Vicarious liability of employees.—**

A vicarious liability can be fastened only by reason of a provision of a statute and not otherwise. For the said purpose, a legal fiction has to be created. Even under a special statute when the vicarious criminal liability is fastened on a person on the premise that he was in-charge of the affairs of the company and responsible to it, all the ingredients laid down under the statute must be fulfilled. A legal fiction must be confined to the object and purport for which it has been created." No case of criminal misconduct on their part has been made out before the formation of the contract. There is nothing to show that the appellants herein who hold different positions in the appellant-company made any representation in their personal capacities and, thus, they cannot be made vicariously liable only because they are employees of the company."<sup>523.</sup>

#### **[s 415.16] Allotment of wagons on false letters.—**

The accused who were railway employees tried to divert wagons by procuring their allotment on fake letters of request issued by a fake firm, were held to be guilty of cheating.<sup>524.</sup>

#### **[s 415.17] Representation to Public Service Commission and other appointing authority.—**

The accused who was at the time serving in the Madras Medical Service as a Civil Assistant Surgeon on a temporary basis applied for a permanent post notified by the Madras Public Service Commission and made false representations as to his name, place of birth, father's name and a degree held by him which was a necessary qualification. His name was recommended by the Commission and he was appointed by the Government to the post and drew his salary for several years before the fraud was detected. It was held that although the Commission was an independent statutory body performing advisory function, the deception of such adviser was deception of the Government and the accused was liable under the section.<sup>525.</sup> Where a non-scheduled caste candidate sat for the Indian Administrative Service Examination falsely declaring himself to be a scheduled caste candidate in his application before the Union Public Service Commission and thus obtained the advantage of the relaxed standard of examination prescribed for scheduled caste candidates and eventually got appointed as an IAS. officer by the Government of India, it was held that he had clearly cheated both the Union Public Service Commission and the Government of India and was rightly convicted under [section 429, IPC, 1860](#).<sup>526.</sup>

Securing appointments from Government officials by producing fake letters from Ministers and also by posing to be the brother of a minister, has been held to constitute

an offence of cheating by personation, and of forgery under sections 466–467 and of forging Ministerial communications under section 468.<sup>527</sup>

### [s 415.18] Illustration(f).—

It may be that the facts narrated in the present complaint would as well reveal a commercial transaction or money transaction. But that is hardly a reason for holding that the offence of cheating would elude from such a transaction. In fact, many a cheatings were committed in the course of commercial and also money transactions. One of the illustrations set out under [section 415 of the IPC, 1860](#) (Illustration f) is worthy of notice now "(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats."<sup>528</sup> On its plain language it is manifest from this illustration that what is material is the intention of the drawer at the time the cheque is issued, and the intention has to be gathered from the facts on the record. If from the circumstances it is established that the failure to meet a cheque was not accidental but was the consequence expected by the accused, the presumption would be that the accused intended to cheat.<sup>529</sup>

The accused introduced a person to the bank only for opening an account. It was held that such act could not by itself spell out any intention to commit fraud or cheating. The evidence did not show that the introducer was in any way connected with the fraud committed on the bank by the person introduced or with the loss suffered by the bank. He was accordingly acquitted of all charges.<sup>530</sup>

<sup>472</sup>. Note N, pp 164, 166.

<sup>473</sup>. The restatement of these ingredients occurs in *Divender Kumar Singla v Baldev Krishna Singla*, [AIR 2004 SC 3084](#) [[LNIND 2004 SC 228](#)] : (2005) 9 SCC 15 [[LNIND 2004 SC 228](#)] .

<sup>474</sup>. *Hridya Rajan Pd. Verma v State of Bihar*, [AIR 2000 SC 2341](#) [[LNIND 2000 SC 563](#)] ; *Arun Bhandari v State of UP*, (2013) 2 SCC 801 [[LNIND 2013 SC 18](#)] : 2013 Cr LJ 1020 (SC).

<sup>475</sup>. *Sundar Singh*, (1904) PR No. 25 of 1904.

<sup>476</sup>. Note N p 163.

<sup>477</sup>. *K Periasami v State*, [1985 Cr LJ 1721](#) (Mad); See also discussion under para "Dishonest Intention at the outset" *infra*. See also *Poovalappil David v State of Kerala*, [1989 Cr LJ 2452](#) (Ker), switching off AC machines in a cinema hall after the patrons are in, cheating. Proceedings on the report of a police sub-inspector not illegal. *Vinar Ltd v Chenab Textile Mills*, [1989 Cr LJ 1858](#) (J&K) Ranbir Code, breach of business contract, no criminal proceeding allowed. *Ranjit Pant v State of Jharkhand*, [2003 Cr LJ 1736](#) (Jhar), the complainant (landowner) was induced by the accused that on his handing over his land under a lease for establishing a petrol pump he would be given dealership. A bank guarantee of Rs. 4 lacs was taken from him, but dealership was allotted to another person. Thus, it seemed to the court that the accused did not have *bona fide* intention from the beginning. Framing of charge-sheet under section 468 forgery for cheating and section 420 was held to be proper.

478. *Gautam Sinha v State of Bihar*, [2003 Cr LJ 635](#) (Jhar).
479. *V Y Jose v State of Gujarat*, AIR 2009 SC (Supp) 59.
480. *Hridaya Ranjan Pd. Verma v State of Bihar*, [AIR 2000 SC 2341](#) [[LNIND 2000 SC 563](#)] : [2000 Cr LJ 2983](#) ; *Murari Lal Gupta v Gopi Singh*, (2006) 2 SCC (Cr) 430; *B Suresh Yadav v Sharifa Bee*, (2007) 13 SCC 107 [[LNIND 2007 SC 1238](#)] .
481. *Kuriachan Chacko v State of Kerala*, (2008) 8 SCC 708 [[LNIND 2008 SC 1378](#)] .
482. *Inder Mohan Goswami v State of Uttaranchal*, (2007) 12 SCC 1 [[LNIND 2007 SC 1179](#)] : (2008) 1 SCC (Cr) 259 : [AIR 2008 SC 251](#) [[LNIND 2007 SC 1179](#)] ; *SN Palanitkar v State of Bihar*, [AIR 2001 SC 2960](#) [[LNIND 2001 SC 2381](#)] .
483. *KC Thomas v A Varghse*, [1974 Cr LJ 207](#) (Ker).
484. *Vadivel v Packialakshmi*, [1996 Cr LJ 300](#) (Mad).
485. *Goss*, (1860) 8 Cox 262.
486. *Iridium India Telecom Ltd v Motorola Incorporated*, (2011) 1 SCC 74 [[LNIND 2010 SC 1012](#)] : [AIR 2011 SC 20](#) [[LNIND 2010 SC 1012](#)] .
487. *Matilal Chakrabarti*, (1950) 2 Cal 73 .
488. *National Insurance Co v Narendra Kumar Jhanjari*, [1990 Cr LJ 773](#) (Pat). The court **followed**, *State of Kerala v SA Pareed Pillai*, [AIR 1973 SC 326](#) : [1972 Cr LJ 1243](#) and *Hari Prasad Chamaria v Bishun Kumar Surekha*, [AIR 1974 SC 301](#) [[LNIND 1973 SC 264](#)] : [1974 Cr LJ 352](#) . *VP Shrivastava v Indian Explosives Limited*, (2010) 10 SCC 361 [[LNIND 2010 SC 920](#)] : (2010) 3 SCC(Cr) 1290.
489. *Maria Giles*, (1865) 10 Cox 44; *Khoda Bux v Bakeya Mundari*, (1905) 32 Cal 941 .
490. *Mohsinbhai*, (1931) 34 Bom LR 313 : 56 Bom 204.
491. *Mohsinbhai*, (1931) 34 Bom LR 313 : 56 Bom 204.
492. *SVL Murthy v State*, (2009) 6 SCC 77 [[LNIND 2009 SC 1167](#)] : [AIR 2009 SC 2717](#) [[LNIND 2009 SC 1167](#)] .
493. *Mohabat*, (1889) PR No. 20 of 1889. Representation that accommodation would be provided to tourists and taking money from them in advance and then not providing accommodation could amount to cheating, hence, process not stopped. *Sanjiv Bharadwaj v Hasmukhlal Rambhai Patel*, [1989 Cr LJ 1892](#) (Guj); *Anil Ritolla v State of Bihar*, (2007) 10 SCC 110 [[LNIND 2007 SC 1096](#)] , such offence can be committed even in the making of a commercial transaction. The allegations in the complaint did not show any intention to induce a person to deliver property.
494. *NM Chakraborty*, [1977 Cr LJ 961](#) (SC) : [AIR 1977 SC 1174](#) [[LNIND 1977 SC 179](#)] .
495. *Harendra Nath Das v Jyotish Chandra Datta*, (1924) 52 Cal 188 .
496. *Ibid*.
497. *Rajesh Bajaj v State, NCT of Delhi*, [AIR 1999 SC 1216](#) [[LNIND 1999 SC 233](#)] : [1999 Cr LJ 1833](#) .
498. *Suryalakshmi Cotton Mills Ltd v Rajvir Industries Ltd*, (2008) 13 SCC 678 [[LNIND 2008 SC 36](#)] : [AIR 2008 SC 1683](#) [[LNIND 2008 SC 36](#)] .
499. *KC Builders v CIT*, (2004) 2 SCC 731 [[LNIND 2004 SC 118](#)] : [AIR 2004 SC 1340](#) : (2004) 265 ITR 562 [[LNIND 2004 SC 118](#)] : (2004) 1 KLT 596 .
500. *State of Kerala v AP Pillai*, [1972 Cr LJ 1243](#) (SC) : [AIR 1973 SC 326](#) . Followed in *Bimal Kumar v Vishram Lekhray*, [1990 Cr LJ 444](#) (Bom), where dishonest intention in failing to furnish "G" form was not proved. The court referred to, *Trilok Singh v Satya Deo Tripathi*, [AIR 1979 SC 850](#) : [1980 Cr LJ 822](#) and *Ram Avtar Gupta v Gopal Das Taliwal*, [AIR 1983 SC 1149](#) : (1983) 2 SCC 431 ; *Shyam Sundar v Lala Bhavan Kishore*, [1989 Cr LJ 559](#) (All), post-dated cheques dishonoured, intention at the outset to have them dishonoured not established. But see *Radhakishan Dalmia v Narayan*, [1989 Cr LJ 443](#) (MP), where payment of post- dated cheques



was stopped by the drawer and the court refused to quash proceedings because dishonest intention could be inferred.

501. *Ajay Mitra v State of MP*, [AIR 2003 SC 1069](#) [[LNIND 2003 SC 108](#)] : [2003 Cr LJ 1249](#) .
502. *Devendra v State of UP*, [\(2009\) 7 SCC 495](#) [[LNIND 2009 SC 1158](#)] : [\(2009\) 3 SCC Cr 461](#).  
*Harmanpreet Singh Ahluwalia v State of Punjab*, [\(2009\) 7 SCC 712](#) [[LNIND 2009 SC 1121](#)] : [2009 Cr LJ 3462](#) , here also there was no element of wrongful intention in the transaction either at the initial stage or developing subsequently.
503. *Raj Mangal Kushwaha v State of UP*, [2010 Cr LJ 3611](#) (All).
504. *Devendra v State of UP*, [2009 \(7\) SCC 495](#) [[LNIND 2009 SC 1158](#)] [2009 \(7\) Scale 613](#) [[LNIND 2009 SC 1158](#)] .
505. *GHCL Employees Stock Option Trust v India Infoline Ltd* [\(2013\) 4 SCC 505](#) [[LNIND 2013 SC 232](#)] : [AIR 2013 SC 1433](#) [[LNIND 2013 SC 232](#)] .
506. *Arun Bhandari v State of UP* [\(2013\) 2 SCC 801](#) [[LNIND 2013 SC 18](#)] : [2013 Cr LJ 1020](#) (SC);  
*Lee Kun Hee v State*, [AIR 2012 SC 1007](#) [[LNINDORD 2012 SC 443](#)] : [\(2012\) 3 SCC 132](#) [[LNIND 2012 SC 89](#)] .
507. *Kuldip Singh v State*, [1954 Cr LJ 299](#) (P&H).
508. *Bishan Das*, [\(1905\) ILR 27](#) All 561.
509. *TP Amina v P Nalla Thampy Thera Dr.*, [2003 Cr LJ 2945](#) (Ker).
510. *Legal Remembrancer v Manmatha Bhusan Chatterjee*, [\(1923\) 51 Cal 250](#) ; *Harendra Nath Das v Jyotish Chandra Datta*, [\(1924\) 52 Cal 188](#) .
511. *Ramji Lakhamshi v Harshadrai*, [\(1959\) 61 Bom LR 1648](#) .
512. *Baboo Khan v State*, [\(1961\) 2 Cr LJ 759](#) .
513. *Ram Jas*, [1974 Cr LJ 1261](#) (SC); See also *Bhujang*, [1977 Cr LJ NOC 17](#) (Kant).
514. *Surendra Meneklal v Bai Narmada*, [AIR 1963 Guj 239](#) [[LNIND 1963 GUJ 55](#)] .
515. *Anja Match Industries v South Indian Locifer Match Works*, [1999 Cr LJ 181](#) (Mad).
516. *Mohd. Ibrahim v State of Bihar*, [\(2009\) 8 SCC 751](#) [[LNIND 2009 SC 1774](#)] : [\(2009\) 3 SCC \(Cr\) 929](#).
517. *G v Rao v LHV Prasad*, [AIR 2000 SC 2474](#) [[LNIND 2000 SC 429](#)] : [2000 Cr LJ 3487](#) . See for example, *V Srinivasa Reddy v State of AP*, [AIR 1998 SC 2079](#) [[LNIND 1998 SC 158](#)] : [1998 Cr LJ 2918](#) , a case of bank fraud.
518. *Standard Chartered Bank v Directorate of Enforcement* [\(2005\) 4 SCC 405](#) : [2005 \(5\) Scale 97](#) .
519. *Iridium India Telecom Ltd v Motorola Incorporated*, [\(2011\) 1 SCC 74](#) [[LNIND 2010 SC 1012](#)] : [AIR 2011 SC 20](#) [[LNIND 2010 SC 1012](#)] .
520. *Supra*.
521. *CBI v Blue Sky Tie-up Pvt Ltd* [2012 Cr LJ 1216](#) : [AIR 2012 SC \(Supp\) 613](#).
522. *Maksud Saiyed v State of Gujarat*, [2008 \(5\) SCC 668](#) [[LNIND 2007 SC 1090](#)] : [JT 2007 \(11\) SC 276](#) [[LNIND 2007 SC 1090](#)] .
523. *Sharon Michael v State of Tamil Nadu*, [AIR 2008 SC \(Supp\) 688](#); *R Kalyani v Janak C Mehta*, [2008 \(14\) Scale 85](#) [[LNIND 2008 SC 2127](#)] .
524. *Jagdish Prasad v State of Bihar*, [1990 Cr LJ 366](#) (Pat).
525. *Krishnamurthy*, [AIR 1965 SC 333](#) [[LNIND 1964 SC 95](#)] .
526. *Sushil Kumar Datta*, [1985 Cr LJ 1948](#) (Cal).
527. *State of UP v Ram Dhani*, [1987 Cr LJ 933](#) (All).
528. *Rajesh Bajaj v State NCT of Delhi*, [\(1999\) 3 SCC 259](#) [[LNIND 1999 SC 233](#)] ; *Trisuns Chemical Industry v Rajesh Agarwal*, [\(1999\) 8 SCC 686](#) [[LNIND 1999 SC 840](#)] .
529. *Punit Pruthi v State*, [2010 \(1\) Crimes 439](#) : [2010 Cr LJ 1111](#) (Del).



530. *Manoranjan Das v State of Jharkhand*, (2004) 12 SCC 90 : AIR 2004 SC 3623 : (2004) 121  
Comp. Cas 8 : 2004 Cr LJ 3042 .

# THE INDIAN PENAL CODE

## CHAPTER XVII OF OFFENCES AGAINST PROPERTY

### Of Theft

### Of Cheating

#### [s 416] Cheating by personation.

A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

**Explanation.**—The offence is committed whether the individual personated is a real or imaginary person.

#### ILLUSTRATIONS

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

#### COMMENT—

To 'personate' means to pretend to be a particular person.<sup>531</sup> As soon as a man by word, act, or sign holds himself forth as a person entitled to vote with the object of passing himself off as that person, and exercising the right which that person has, he has personated him.<sup>532</sup> If a person at Oxford, who is not a member of the university, goes to a shop for the purpose of fraud, wearing a commoner's cap and gown, and obtains goods, his appearing in a cap and gown is a sufficient false pretence although nothing passed in words.<sup>533</sup>

The person personated may be a real or an imaginary person.

#### [s 416.1] Ingredients.—

This section requires any one of the following essentials:

- (1) Pretention by a person to be some other person.
- (2) Knowingly substituting one person for another.
- (3) Representation that he or any other person is a person other than he or such other person really is.

#### [s 416.2] CASES.—False representation at examination.—