

C. The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind, or (b) intoxication, or (c) deception practised upon him, know the contents of the document or the nature of the alteration. In short, a person is said to have made a 'false document', if (i) he made or executed a document claiming to be someone else or authorised by someone else, or (ii) he altered or tampered a document, or (iii) he obtained a document by practicing deception, or from a person not in control of his senses.<sup>12</sup> Making of any false document, in view of the definition of 'forgery' is the *sine qua non* therefor. What would amount to making of a false document is specified in section 464 thereof. What is, therefore, necessary is to execute a document with the intention of causing it to be believed that such document *inter alia* was made by the authority of a person by whom or by whose authority he knows that it was not made.<sup>13</sup> In the case of *Mir Nagvi Askari v CBI*, the Court held that:

A person is said to make a false document or record if he satisfies one of the three conditions as noticed hereinbefore and provided for under the said section. The first condition being that the document has been falsified with the intention of causing it to be believed that such document has been made by a person, by whom the person falsifying the document knows that it was not made. Clearly the documents in question in the present case, even if it be assumed to have been made dishonestly or fraudulently, had not been made with the intention of causing it to be believed that they were made by or under the authority of some one else. The second criteria of the section deals with a case where a person without lawful authority alters a document after it has been made. There has been no allegation of alteration of the voucher in question after they have been made. Therefore in our opinion the second criteria of the said section is also not applicable to the present case. The third and final condition of Section 464 deals with a document, signed by a person who due to his mental capacity does not know the contents of the documents which were made i.e because of intoxication or unsoundness of mind etc. Such is also not the case before us. Indisputably therefore the accused before us could not have been convicted with the making of a false document.<sup>14</sup>

To attract the second clause of section 464 there has to be alteration of document dishonestly and fraudulently. So in order to attract the clause 'secondly' if the document is to be altered it has to be for some gain or with such objective on the part of the accused. Merely changing a document does not make it a false document.<sup>15</sup>

#### **[s 464.1] Making of false document.—**

False document is said to have been made when a person dishonestly or fraudulently makes a document with the intention of causing it to be believed that such document was made by some other person.<sup>16</sup>

#### **[s 464.2] Issuance of a caste certificate.—**

The Sub-Divisional Officer (SDO) issued a caste certificate. The application for the same was supported by affidavit of the father of the applicant. Later, the High Power Scrutiny Committee cancelled the certificate. A complaint was filed alleging forgery, cheating, conspiracy, etc. The High Court held that no offence of forgery was constituted as neither signature nor seals, etc., of Sub-Divisional Officer were forged but the caste certificate was issued by the SDO, himself and therefore it was not a false document in the eyes of law according to the provisions of [section 464 of IPC, 1860](#).<sup>17</sup>

4. Subs. by The [Information Technology Act](#) (Act 21 of 2000), section 91 and First Schedule, w.e.f. 17 October 2000. The words "electronic record" have been defined in section 29A.
5. Subs. for the words "digital signature" by the Information Technology (Amendment) Act, 2008 (10 of 2009), section 51 (w.e.f. 27 October 2009).
6. Subs. for the words "digital signature" by the Information Technology (Amendment) Act, 2008 (10 of 2009), section 51 (w.e.f. 27 October 2009).
7. *Ibid.*
8. *Ibid.*
9. *Ibid.*
10. Ins. by The [Information Technology Act](#) (Act 21 of 2000), section 91 and First Sch, w.e.f. 17 October 2000.
11. Subs. for the words "digital signature" by the Information Technology (Amendment) Act, 2008 (10 of 2009), section 51 (w.e.f. 27 October 2009).
12. *Mohammed Ibrahim v State of Bihar*, (2009) 8 SCC 751 [[LNIND 2009 SC 1774](#)] : 2010 Cr LJ 2223 : AIR 2010 SC (Supp) 347; *Malay Chatterjil v State of Bihar*, 2012 Cr LJ 2240 (Pat).
13. *Devendra v State of UP*, 2009 (7) SCC 495 : 2009 (7) Scale 613 [[LNIND 2009 SC 1158](#)] .
14. *Mir Nagvi Askari v CBI*, [AIR 2010 SC 528](#) [[LNIND 2009 SC 1651](#)] : (2009) 15 SCC 643 [[LNIND 2009 SC 1651](#)] .
15. *Parminder Kaur v State of UP*, (2010) 1 SCC 322 [[LNIND 2009 SC 1924](#)] : [AIR 2010 SC 840](#) [[LNIND 2009 SC 1924](#)] .
16. *Raj Shekhar Agrawal v State of WB*, 2016 Cr LJ 993 (Cal) : (2015) 4 CALLT 615 (HC).
17. *Harvir Singh v State of MP*, 2016 Cr LJ 3608 (MP) : 2016 (2) JLJ 422 .

## THE INDIAN PENAL CODE

### CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

#### [s 465] Punishment for forgery.

**Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.**

#### COMMENT.—

The offence of forgery is defined in sections 463 and 464 of the Code. Under section 463 the making of a false document with any of the intents therein mentioned is forgery, and section 464 sets forth when a person is said to make a 'false document' within the meaning of the Code.

The definition of forgery in the Code is not as simple and clear as the definition of forgery in common law. Forgery in common law is defined as the fraudulent making or alteration of a writing to the prejudice of another man's right.

#### [s 465.1] Ingredients.—

The elements of forgery are—

1. The making of a false document or part of it.
2. Such making should be with the intent
  - (a) to cause damage or injury to (i) public, or (ii) any person; or
  - (b) to support any claim or title; or
  - (c) to cause any person to part with property; or
  - (d) to cause any person to enter into express or implied contract; or
  - (e) to commit fraud or that fraud may be committed.

**1. 'Makes any false document'.—** A school inspector prepared under his own signature false pay bills containing false claims for salaries of teachers who had not worked within his jurisdiction, some of whom being purely fictitious, and encashed them from the treasury. He was held to be guilty of making a false document but not of forgery because he had not made the signature or writing of another, nor had altered the pay bills.<sup>18.</sup>

The antedating of a document is not forgery, unless it has or could have operated to the prejudice of some one.<sup>19.</sup> Incorporation or inclusion of a false statement in a document would not *ipso facto* make the document false. For a document to be false, it has to tell a lie about itself.<sup>20.</sup>

## **[s 465.2] Publication of book.—**

There was allegation that the accused person, in order to induce the public to purchase the book, falsely represented that the book was by a certain person. There was no allegation that the accused himself had written the book and represented it to be that of some other person. The Court said such allegations, even if true, do not make out a case of forgery. The offence of cheating could not also be said to have been made out because it was a consequential offence.<sup>21.</sup>

Where the allegation was that the accused, who was working as a stenographer in the High Court, had fabricated a forged bail order and the evidence showed that the bail order in question was in fact written by the accused, the finding of the High Court that the paper could not be said to be a document in the absence of signature of the accused was held to be not tenable. The document could have been used for causing wrongful loss or obtaining wrongful gain. Hence, the offence under sections 466 and 468 was made out.<sup>22.</sup>

**2. 'To cause damage or injury to the public or to any person'.—**The damage or injury must be intended to be caused by the false document to the public or any individual.<sup>23.</sup> Thus, a police-officer who alters his diary so as to show that he had not kept certain persons under surveillance does not commit forgery, inasmuch as there is no risk of loss or injury to any individual and the element of fraud as defined in section 25 is absent.<sup>24.</sup> It is the intent to cause damage or injury which constitutes the gist of this offence. It is immaterial whether damage, injury or fraud is actually caused or not.<sup>25.</sup> Mere making of a false document would not constitute defrauding unless injury or intent to cause injury to the person deceived was also proved.<sup>26.</sup>

To tamper with a proceeding in a Court of Justice in order to obtain from the Court a decision or order, which it otherwise would not make, is as much a public mischief as to attempt to secure the unauthorised release of a prisoner from jail or to obtain for an unqualified person credentials entitling him to practise as a surgeon or to navigate a ship.<sup>27.</sup>

**3. 'Support any claim or title'.—**Even if a man has a legal claim or title to property, he will be guilty of forgery if he counterfeits documents in order to support it. See illustrations (f), (g), (h) and (i). An actual intention to convert an illegal or doubtful claim into an apparently legal one is dishonesty and will amount to forgery.<sup>28.</sup>

The term 'claim' is not limited in its application to a claim to property. It may be a claim to anything, as for instance, a claim to a woman as the claimant's wife, a claim to the custody of a child as being the claimant's child, or a claim to be admitted to attendance at a law class in a college, or to be admitted to a university or other examination, or a claim to the possession of immovable or any other kind of property.<sup>29.</sup>

**4. 'To cause any person to part with property'.—**It is not necessary that the property with which it is intended that false document shall cause a person to part should be in existence at the time when the false document was made. For example, if A gave an order to B to buy the material for making and to make a silver tea service for him, and C, before the tea service was made or the materials for making it had been bought were to make a false letter purporting, but falsely, to be signed by A, authorizing B to deliver to D the tea service when made, C would have committed forgery within the meaning of section 463 by making that false document with intent to cause B to part with property, namely, the tea service, when made.<sup>30.</sup> A written certificate has been held to be 'property' within the meaning of this section.<sup>31.</sup>

**5. 'Intent to commit fraud'.—**The Supreme Court had held that the expression "defraud" involves two elements, namely, deceit and injury to the person deceived. Injury is something other than economic loss that is deprivation of property, whether movable or immovable, or of money, and it will include any harm whatever caused to any person in body, mind, reputation or such others. In short, it is a non-economic or non-pecuniary loss. A benefit or advantage to the deceiver will almost always cause loss or detriment to the deceived. Even in those rare cases where there is a benefit or advantage to the deceiver, but no corresponding loss to the deceived the second condition is satisfied.<sup>32.</sup>

**6. 'Fraudulently'.—**This word is used in sections 471 and 464 together with the word 'dishonestly' and presumably in a sense not covered by the latter word. If, however, it be held that 'fraudulently' implies deprivation, either actual or intended, then apparently that word would perform no function which would not have been fully discharged by the word 'dishonestly' and its use would be mere surplusage. So far as such a consideration carries any weight, it obviously inclines in favour of the view that the word 'fraudulently' should not be confined to transactions of which deprivation of property forms a part.<sup>33.</sup>

**7. 'Makes'.—**"The 'making of a document, or part of a document, does not mean 'writing' or 'printing' it, but signing or otherwise executing it; as in legal phrase we speak of 'making an indenture' or 'making a promissory note', by which is not meant the writing out of the form of the instrument, but the sealing or signing it as a deed or note. The fact that the word 'makes' is used in the section in conjunction with the words 'signs', 'seals' or 'executes', or 'makes any mark denoting the execution', etc., seems to very clearly to denote that this is its true meaning. What constitutes a false document or part of a document is not the writing of any number of words which in themselves are innocent, but affixing the seal or signature of some person to the document, or part of a document, knowing that the seal or signature is not his, and that he gave no authority to affix it. In other words, the falsity consists in the document, or part of a document, being signed or sealed with the name or seal of a person who did not in fact sign or seal it".<sup>34.</sup>

### **[s 465.3] Fabricating letter or certificate.—**

In a case, the allegation was that the accused made false document for getting sim cards of mobile phones. Handwriting expert deposed that he was not in a position to give any finding on basis of specimen signature of appellant. It was held that since finding recorded by Special Judge was contrary to evidence given by handwriting expert, conviction of appellant for offence punishable under [section 465](#) read with [section 471](#) of [IPC, 1860](#), could not be sustained.<sup>35.</sup> Where accused was alleged to have obtained employment on strength of forged document, finding that accused had not been proved to have forged the documents, it was held that offence under section 465 is not made out.<sup>36.</sup>

### **[s 465.4] Creation of a website by the company—**

Where the appellant created a website with the name Devi Consultancy Services for the development of the existing company named Devi Polymers Private Limited, in the absence of any possibility to impute any intent to cause damage or injury or to enter into any express or implied contract or any intent to commit fraud in the making of the said website, no offence of forgery is made out, especially when he has not received a

single rupee or nor has he entered into any contract in his own name on the basis of the above website.<sup>37.</sup>

#### **[s 465.5] Acting for society after takeover.—**

Where the entire management of a society was taken over by the petitioners and they were looking after its affairs by writing letters, drawing cheques and operating bank accounts by signing their names on behalf of the society and not on anybody else's names or behalf, the offence of forgery/making false document was not made out.<sup>38.</sup>

#### **[s 465.6] Alteration of document.—**

The mere alteration of a document does not make it a forged document. The alteration must be for some gain or for some objective. The Court said that presuming that figure "1" was added to the date mentioned on the document, it could not be said that the document became false. The accused had nothing to gain from it, nor it affected the period of limitation.<sup>39.</sup>

#### **[s 465.7] Clause second.—Alteration on or cancellation of document [Section 464].—**

This clause requires dishonest or fraudulent cancellation or alteration of a document in any material part without lawful authority after it has been made or executed by a person who may be living or dead.

The conduct of an Advocate's clerk in forging the signature of another Advocate on a surety bond and in altering certain endorsements for the purposes of identification and attestation, was held by the Supreme Court as amounting to an offence under this section and not under section 468.<sup>40.</sup>

#### **[s 465.8] Sentence.—**

Accused employed as a sanitation supervisor was found to have committed offence of making fake trade licences and issuing them to various persons. Court below convicted him for one year under [section 471](#) read with [section 465 IPC, 1860](#), and two years' simple imprisonment (SI) under [section 468, IPC](#) imposed upon him. Considering the fact that he was a first offender and an orphan and sole bread earner of his family which consisted of a minor child and an unemployed wife, the sentence under [section 471](#) read with [section 465 IPC, 1860](#) was reduced to one month and the sentence under [section 468 IPC, 1860](#) was reduced to two months.<sup>41.</sup>

18. *Shankarlal Vishwakarma v State of MP*, [1991 Cr LJ 2808](#) (MP).
19. *Gobind Singh*, (1926) 5 Pat 573.
20. *AK Khosla v TS Venkatesan*, [1994 Cr LJ 1448](#) (Cal); *Lee Cheung Wing v R*, 1992 Cr App R 355 (PC), falsification of a withdrawal slip to enable the withdrawal of money, offence; *Premalata v State of Rajasthan*, [1998 Cr LJ 1430](#) (Raj); *Manilal v State of Kerala*, [1998 Cr LJ 785](#) (Ker). See also *Joginder Lal v State (Delhi Admn.)*, [1998 Cr LJ 3175](#) (Del); *Mohandas v State of TN*, [1998 Cr LJ 3409](#) (Mad); *Bharat Hiralal v Jaysiri Amarsinh*, [1997 Cr LJ 2509](#) (Bom), forgery of a document is possible even if the accused himself is the author and signatory of the document. A case of a false bill, magistrate justified in taking cognizance.
21. *Guru Bipin Singh v Chongtham Manihar Singh*, [AIR 1997 SC 1448](#) [[LNIND 1996 SC 1690](#)] : [1997 Cr LJ 724](#) .
22. *State of UP v Ranjit Singh*, [AIR 1999 SC 1201](#) : [1999 Cr LJ 1830](#) .
23. *RR Diwakar v B Guttal*, [1975 Cr LJ 90](#) (Kant).
24. *Sanjiv Ratnappa*, (1932) 34 Bom LR 1090 : 56 Bom 488.
25. *Kalyanmal*, (1937) Nag 45.
26. *Sadanand*, [1977 Cr LJ NOC 103](#) (Goa); *Tul Mohon Ram*, [1981 Cr LJ NOC 223](#) (Del); see also *Harnam Singh*, [1976 Cr LJ 913](#) (SC), as in 'Comments' under section 477A *infra*. *TN Rugmani v C. Achutha Menon*, [AIR 1991 SC 983](#) [[LNIND 1990 SC 803](#)] , application for permission for construction made in another's name, but without any intention of causing harm, no offence under the section.
27. *Mahesh Chandra Prasad v State*, (1943) 22 Pat 292.
28. *Ibid*.
29. *Soshi Bhushan*, (1893) 15 All 210 , 217.
30. *Soshi Bhushan*, (1893) 15 All 210 , 217, 218.
31. *Ibid*, p 218.
32. *Dr. Vimla*, (1963) 2 Cr LJ 434 .
33. *Abbas Ali*, (1896) 25 Cal 512 , 521, FB **overruling** *Haradhan*, (1892) 19 Cal 380 .
34. *Per Garth CJ in Riasat Ali*, (1881) 7 Cal 352 , 355.
35. *Nazeem Ahmed Wahid Ahmed Khanl v State of Maharashtra*, [2011 Cr LJ 1786](#) (Bom).
36. *Rupa Bania v State of Assam*, [2006 Cr LJ 3455](#) (Gau).
37. *Ramesh Rajagopal v Devi Polymers Pvt Ltd*, [AIR 2016 SC 1920](#) [[LNIND 2016 SC 170](#)] : [2016\(4\) Scale 198](#) [[LNIND 2016 SC 170](#)] .
38. *PN Parthasarthy v GK Srinivasa Rao*, [1995 Cr LJ 3406](#) (Kant).
39. *Parminder Kaur v State of UP*, [2010 Cr LJ 895](#) : [AIR 2010 SC 840](#) [[LNIND 2009 SC 1924](#)] : (2010) 1 SCC 322 [[LNIND 2009 SC 1924](#)] .
40. *Sharvan Kumar v State of UP*, [AIR 1985 SC 1663](#) [[LNIND 1985 SC 231](#)] : (1985) 3 SCC 658 [[LNIND 1985 SC 231](#)] , reducing the sentence to nine months, already undergone.
41. *Tashi Dadul Bhutia v State of Sikkim*, [2011 Cr LJ 1315](#) (Sik).

## THE INDIAN PENAL CODE

### CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

[s 466] Forgery of record of Court or of public register, etc.

<sup>42.</sup> [Whoever forges a document or an electronic record], purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>43.</sup> [Explanation.—For the purposes of this section, "register" includes any list, data or record of any entries maintained in the electronic form as defined in clause (r) of sub-section (1) of [section 2 of the Information Technology Act, 2000](#)].

#### COMMENT.—

Forging a document and using the forged document are quite different and distinct offence. The reliance on the false documents will not *ipso facto* implicate the person who relied upon, under sections 465 and 466.<sup>44</sup> If by virtue of preparing a false document purporting it to be a document of a Court of Justice and by virtue of such document, a person who is not entitled to be released on bail could be released then, undoubtedly damage or injury has been caused to the public at large and, therefore, there is no reason why under such circumstances the accused who is the author of such forged document cannot be said to have committed offence under [section 466 of IPC, 1860](#). A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise. The expression 'defraud' involves two elements, namely deceit and injury to the person deceived. Injury is something other than economic loss and it will include any harm whatever caused to any person in body, mind, reputation or such others. A benefit or advantage to the deceiver will almost always cause loss or detriment to the deceived. The preparation of a forged bail order by the utilisation of which the person concerned obtained an advantage of being released deceiving the courts and the society at large cannot but be said to have made the document fraudulently, thereby attracting [section 466 of IPC, 1860](#).<sup>45</sup>

<sup>42.</sup> Subs. by The [Information Technology Act](#) (Act 21 of 2000), section 91 and First Sch for the words "whoever forges a document", w.e.f. 17 October 2000. The words "electronic record" have been defined in section 29A.

<sup>43.</sup> Ins. by the [Information Technology Act](#) (21 of 2000), section 91 and First Sch, (w.e.f. 17 October 2000).



44. *C R Alimchandani v I K Shah*, [1999 Cr LJ 2416](#) (Bom).
45. *State of UP v Ranjit Singh*, [AIR 1999 SC 1201](#) : [1999 \(2\) SCC 617](#) .

## THE INDIAN PENAL CODE

### CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

#### [s 467] Forgery of valuable security, will, etc.

Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with <sup>46.</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

#### COMMENT.—

The offence under this section is an aggravated form of the offence described in the preceding section. The forged document must be one of those mentioned in the section. A complaint by the court is necessary for cognizance of the offence.<sup>47.</sup> [Section 467, IPC, 1860](#), does not require the prosecution to prove that the accused who commits forgery, has benefitted thereby or any loss has occasioned to anyone thereby.<sup>48.</sup> There is a fundamental difference between a person executing a sale deed claiming that the property conveyed is his property, and a person executing a sale deed by impersonating the owner or falsely claiming to be authorised or empowered by the owner, to execute the deed on owner's behalf. When a person executes a document conveying a property describing it as his, there are two possibilities. The first is that he has a *bona fide* belief that the property actually belongs to him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he knows that it is not his property. But to fall under first category of "false documents", it is not sufficient that a document has been made or executed dishonestly or fraudulently. There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither section 467 nor section 471 of the Code is attracted.<sup>49.</sup>

#### [s 467.1] Quashing of complaint.—

There were bold allegations in the complaint that the shares of the complainant had been transferred on forged signatures. There was nothing to show how all or any of the accused persons were involved. No offence was constituted under sections 406, 420, 467, 468 and 120-B. The order taking cognizance was held to be improper. It was