

70. Subs. by *Ibid.*
71. Subs. by *Ibid.*
72. *Budhu Ram v State*, (1963) 2 Cr LJ 698 (SC).
73. *State of Madhya Pradesh v Surendra Kori*, 2013 Cr LJ 167 (SC); (2012) 10 SCC 155 [LNIND 2012 SC 681] .
74. *Mohd Ibrahim v State of Bihar*, (2009) 8 SCC 751 [LNIND 2009 SC 1774] : (2009) 3 SCC (Cr) 929.
75. *Ranchhoddas*, (1896) 22 Bom 317.
76. *Abdul Karim v State*, 1979 Cr LJ 1123 (SC).
77. *Chatt Ram*, 1979 Cr LJ 1411 (SC).
78. *AS Krishanan v State of Kerala*, (2004) 11 SCC 576 [LNIND 2004 SC 349] : AIR 2004 SC 3229 [LNIND 2004 SC 349] : 2004 Cr LJ 2833 , forged marksheets were used in this case for securing admission to medical college. The candidate (accused) deserved no leniency in the matter of punishment.
79. *Ibid.*
80. *Jayrajsinh Digvijaysinh Rana v State of Gujarat*, 2012 AIR (SCW) 4092 : 2012 Cr LJ 3900 ; *Ashok Sadarangani v UOI*, AIR 2012 SC 1563 [LNIND 2012 SC 180] : (2012) 11 SCC 321 [LNIND 2012 SC 180] , where emphasis is more on the criminal intent of the petitioners than on the civil aspects involving the dues of the bank in respect of which a compromise was worked out, proceedings cannot be quashed.
81. *Bank of India v Yeturi Maredi Shanker Rao*, (1987) 1 SCC 577 [LNIND 1987 SC 104] : AIR 1987 SC 821 [LNIND 1987 SC 104] : 1987 Cr LJ 722 . Encashing a forged bank draft is an offence under this section. *Adithelo Immanuel Raju v State of Orissa*, (1992) Cr LJ 243 .
82. *Jagdish v State of Rajasthan*, 2002 Cr LJ 2171 (Raj).
83. *Tulsibhai Jivabhai Changani v State of Gujarat*, 2001 Cr LJ 741 (SC).
84. *NK Illiyas v State of Kerala*, 2012 Cr LJ 2418 : AIR 2012 SC 3790 [LNIND 2011 SC 646] .
85. *Khandusingh*, (1896) 22 Bom 768.
86. *Abbas Ali*, (1896) 25 Cal 512 (FB).
87. *Chanan Singh*, (1928) 10 Lah 545.
88. *Galla Nageswara Rao v State of AP*, 1992 Cr LJ 2601 (AP).
89. *Daniel*, AIR 1968 Mad 349 [LNIND 1967 MAD 140] . *Hema v State*, 2013 Cr LJ 1011 : AIR 2013 SC 1000 [LNIND 2013 SC 1240] , where accused in conspiracy with the owner of a travel agency filed application for passport by giving bogus particulars, court held that she is guilty.
90. *Mahendra Singh v State*, 1972 Cr LJ 34 (SC).
91. *Vijayachandran KK v The Supdt. of Police*, 2008 (2) Ker LJ 751 : 2008 (3) Ker LT 307 .
92. *Om Dhankar*, (2012) 11 SCC 252 [LNINDORD 2012 SC 439] : 2012 (3) Scale 363 [LNINDORD 2012 SC 439] ; *Prakash Singh Badal v State of Punjab*, 2007 (1) SCC 1 [LNIND 2006 SC 1091] : AIR 2007 SC 1274 [LNIND 2006 SC 1091] ; *Rakesh Kumar Mishra v State of Bihar*, 2006 (1) SCC 557 [LNIND 2006 SC 8] : AIR 2006 SC 820 [LNIND 2006 SC 8] .

THE INDIAN PENAL CODE

CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

[s 472] Making or possessing counterfeit seal, etc., with intent to commit forgery, punishable under section 467.

Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with ^{93.}[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

COMMENT.—

This section and the section following are akin to sections 235, 255 and 256.

^{93.} Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

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CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

[s 473] Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.

Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

THE INDIAN PENAL CODE

CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

[s 474] Having possession of document described in sections 466 or 467 knowing it to be forged and intending to use it as genuine.

⁹⁴. [Whoever has in his possession any document or electronic record, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document or electronic record is one of the description mentioned in section 466 of this Code], be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 467, shall be punished with ⁹⁵. [imprisonment for life], or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

COMMENT.—

This section resembles sections 242, 243 and 259.

The offence under [section 474, IPC, 1860](#), is made out by the mere fact of possession of forged documents knowing them to be forged and intending the same to be fraudulently and dishonestly used. So even if such documents are not actually used, it need not absolve the accused from the mischief of provisions contained in [section 474, IPC](#). Thus, where the accused falsely posed as an I.A.S. officer and as a Joint Director (Vigilance) attached to the Central Bureau of Investigation and was also found in possession of fictitious documents supporting such claim and such documents were being created by him from time to time with a view to entangle people in bogus criminal cases, it was held that the accused was an impostor and had intended to use these faked documents in furtherance of his criminal design. He was, therefore, rightly convicted under [section 474, IPC](#).⁹⁶.

⁹⁴. Subs. by The [Information Technology Act](#) (Act 21 of 2000), section 91 and First Sch for the words "whoever has in his possession, section 466 of this code", w.e.f. 17 October 2000. The words "electronic record" have been defined in section 29A.

⁹⁵. Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

⁹⁶. *Dharam Pal*, [1985 Cr LJ 474](#) (Del).

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CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

[s 475] Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.

Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished ⁹⁷ [with imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

COMMENT.—

The commencement of the forgery of banknotes and other similar securities, where it has proceeded to the length which is described in this section, is treated as a substantive offence and punished. This section supplements the provisions of section 472.

⁹⁷. Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

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CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

[s 476] Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.

Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating ⁹⁸[any document or electronic record] other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, 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 is similar to the preceding section, but as the document, the counterfeit of which is made punishable, is not of so much importance as in that section, the punishment is not so severe.

⁹⁸. Subs. by The [Information Technology Act](#) (Act 21 of 2000), section 91 and First Sch for the words "any document", w.e.f. 17 October 2000. The words "electronic record" have been defined in section 29A.

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CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

[s 477] Fraudulent cancellation, destruction, etc., of will, authority to adopt or valuable security.

Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect of such documents, shall be punished with ⁹⁹[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

COMMENT.—

This section applies when the document tampered with or destroyed is either a will or an authority to adopt or a valuable security. Owing to the great importance of documents of this kind the punishment provided is severe.

1. 'Document'.—The document must be a genuine one. The offence under this section cannot be committed in respect of a document which is a forgery.¹⁰⁰

⁹⁹. Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

¹⁰⁰. *Akbar Hossain*, (1938) 43 Cal WN 222.

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CHAPTER XVIII OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

[s 477A] Falsification of accounts.

Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any ¹⁰¹. [book, electronic record, paper, writing], valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such ¹⁰². [book, electronic record, paper, writing], valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.]

COMMENT.—

This section refers to acts relating to book-keeping or written accounts. It makes the falsification of books and accounts punishable even though there is no evidence to prove misappropriation of any specific sum on any particular occasion.

[s 477A.1] Ingredients.—

This section requires that—

1. The person coming within its purview must be a clerk, an officer, or a servant, or acting in the capacity of a clerk, an officer, or a servant.
2. He must wilfully and with intent to defraud—
 - (i) destroy, alter, mutilate, or falsify, any book, electronic record, paper, writing, valuable security, or account which:
 - (a) belongs to or is in the possession of his employer, or
 - (b) has been received by him for or on behalf of his employer;
 - (ii) make or abet the making of any false entry in or omit or alter or abet the omission or alteration of any material particular from or in any such book, paper, writing, valuable security or account.

To convict a person under [section 477-A IPC, 1860](#), the prosecution has to prove that there was a wilful act, which had been made with an intent to defraud and while proving "Intention to defraud" the prosecution has to further prove two elements that the act

was an act of deceit and it had caused an injury. In the present case, there may be an injury, but there is no deceit.^{103.}

The principles laid down by the Supreme Court in Harnam Case^{104.} are that there should be a wilful act of an accused with an intention to defraud. So both elements must be present and in other words it would mean that the act should be a wilful act and should also be done with an intention to defraud. While trying to define "intent to defraud", the Court noted that it contains two elements, deceit and injury. There is no doubt that to convict a person under [section 477-A IPC](#), the prosecution has to prove that there was a wilful act, which had been made with an intent to defraud and while proving "Intention to defraud" the prosecution has to further prove two elements that the act was an act of deceit and it had caused an injury. In the present case, there may be an injury, but there is no deceit.^{105.}

[s 477A.2] CASES.—

Where, however, the documents alleged to have been falsified are found to be missing from office records, no charge under [section 477A, IPC, 1860](#), can be made out;^{106.} where the Nazir of Special Judicial Magistrate's Court accepted an amount as fine but failed to deposit it in the treasury and made false entries in the Register of Judicial Fines saying that the amount had been deposited, it was held that he was guilty of offences under [sections 409, 467, 468 and 477A, IPC](#).^{107.}

^{101.} Subs. by The [Information Technology Act](#) (Act 21 of 2000), section 91 and First Sch for the words "book, paper, writing", w.e.f. 17 October 2000. The words "electronic record" have been defined in section 29A.

^{102.} Subs. by The [Information Technology Act](#) (Act 21 of 2000), section 91 and First Sch for the words "book, paper, writing", w.e.f. 17 October 2000. The words "electronic record" have been defined in section 29A.

^{103.} *Kandipalli Madhavarao v State of AP*, [2007 Cr LJ 4555](#) (AP).

^{104.} *Supra*.

^{105.} *Kandipalli Madhavarao v State of AP*, [2007 Cr LJ 4555](#) (AP).

^{106.} *Rasul Mohd v State of Maharashtra*, [1972 Cr LJ 313](#) : [AIR 1972 SC 521](#) ; *V Srinivasa Reddy v State of AP*, [AIR 1998 SC 2079](#) [[LNIND 1998 SC 158](#)] : [1998 Cr LJ 2918](#) , false advance shown by bank employee to customers against their FDs. This was abuse of position as public servant. Audit report was against any such manipulation. Proper documents were also not produced before the court. Evidence actually produced was also not examined properly. The case was sent back for fresh disposal without calling for additional evidence. See also *Mohandass v State*, [1998 Cr LJ 3409](#) (Mad); *Sharif Masin v State (UT Chandigarh)*, [1998 Cr LJ 1689](#) (P&H).

^{107.} *State of Punjab v Rathchand*, [1984 Cr LJ NOC 153](#) (P&H). See also *Ravichandran v State by Dy. Supdt. of Police, Madras*, [2010 Cr LJ 2879](#) (SC) : [AIR 2010 SC 1922](#) [[LNINDORD 2010 SC 76](#)] ; *Mir Nagivi Askari v CBI*, [AIR 2009 SC 528](#) [[LNIND 2008 SC 1354](#)] : (2009) 15 643; *State v Mohan*, [AIR 2008 SC 368](#) [[LNIND 2007 SC 1250](#)] : (2007) 14 SCC 667 [[LNIND 2007 SC 1250](#)] .

