

§ 463 → whoever makes any false document or false electronic record or part of a document or electronic record with intent to cause damage or injury, to the public or to any person or to support any claim or title or to cause any person to part with property, or to enter into any contract or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

⇒ Forgery means fraudulent making or alteration of any record, deed, writing, instrument, register, stamp etc. to the prejudice of another man's right. It is a false making of any written instrument for the purpose of fraud or deceit, including every alteration of or addition to a true instrument.

Forgery is the false making or materially altering with intent to defraud, of any writing which, if genuine might apparently be of legal effect, efficacy, or the foundation of a legal liability.

Elements of Forgery :-

⇒ ① The document or Electronic record or the part of it must be false in fact

② It must have been made dishonestly or fraudulently within the meaning of the words used in § 464 IPC

③ The Making of false document or Electronic record should be with intent to

- Cause danger or injury to ① Public ② To any person
- Support any claim or title.

- c) Causes any Person to Part with Property.
- d) Enter into any Express or implied Contract
- e) Commit fraud or that fraud may be Committed.

The term 'fraud' in S.463 implies an infringement of someone's legal right though not necessarily connected with deprivation of Property.

The definition in S.463 is itself subject to the definition in Section 464, in which the 2 essential elements are that the act should be done 'dishonestly & fraudulently'. In other words whichever of the intents as provided in S.463 are applicable, the act itself must be done dishonestly and fraudulently to sustain the allegation of forgery. (Support)

✓ The Object of forgery is to cheat, to cause wrongful distribution of Property by means of a false document. The main difference between cheating & forgery is that in cheating the deception is oral, whereas in ~~creating~~ forgery it is in writing.

S.465 - Punishment for forgery - Imp of either description for a term which may extend to 2 years or with fine or both.

S. 463 ← Forgery U/ S-464

Making false document

A person is said to make false document or false electronic record — (1) who dishonestly & fraudulently

Make signs, seals or executes a document or part of a document

(2) Makes or transmits any electronic record or part of any electronic record.

(3) affixes any electronic signature on any electronic record

(4) makes any mark denoting the execution of a document or the ~~authority~~ authenticity of the electronic signature.

Illustration

Legal process of transferring prop from one owner to another.

A ~~has a letter of~~ without Z's authority, affixes Z's Seal to a document purporting to be a ^(transfer) Conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the Purchase Money. A has committed forgery.

→ A leaves with B, his agent a cheque on a Banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding 10,000 rupees for the purpose of making certain payment. B

fraudulently fills up the cheque by inserting the sum of 20,000 Rupees. B commits forgery.

→ Z's will contain these words - "I direct that all my remaining property be equally divided between A, B, & C. A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

Explanation 1 - A Man's signature of his own name may amount to forgery.
 (a written order to a person requiring them to make a specified payment)

A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

or the signature of a named payee.

Explanation 2 - Making a false document in the name of a (not genuine) - fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

→ A draws a bill of exchange upon a fictitious person and fraudulently accepts the bill in the name of such fictitious person.

Main Ingredients

- ① The Person Coming within the Purview of S. 477A must be a clerk, an officer, or a servant or acting in the Capacity of a clerk, an officer or a servant. (Person who is acting in that capacity)
 - ② He must willfully and with Intent to defraud -
→ destroy, alter, mutilate or falsify any book, electronic record, Paper, writing, valuable security or account
 - ③ → Belongs to or is in the possession of his employer or has been received by him for or on behalf of his employer.
 - ④ 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.
- * Removal of new Court fee stamp from document and substitution in their place of used stamps with alteration of figures on them do not fall within S. 477A

Section 468 - Forgery for the purpose of Cheating

Whoever commits forgery, intending that the document or Electronic record forged shall be used for the purpose of Cheating (deceive, induce) shall be punished with imprisonment of either description for a term which may extend to 7 years & shall also be liable to fine.

- S. 466 - Forgery of Record of Court or of Public Register etc
467 - Forgery of Valuable Security.
469 - " for purpose of harming reputation
470 - Forged document
471 - using as genuine a forged document
(S. 463 - 477A)

Sec 466 - deals with aggravated form of the offence of forgery.

- 1) A person forges a document (appear)
- The document purports to be
 - Ⓐ record of proceedings of a Court of Justice
 - Ⓑ Register of birth, baptism, Marriage or burial or
 - Ⓒ Register kept by a Public servant or such
 - Ⓓ Certificate or document made by Public servant in his official capacity
 - Ⓔ Authority to Institute or defend suit or.

② lower of attorney.

The offence — non cog
non bailable
non compoundable

Extend to 7 years Imp
and
Fine
Triable by a Mag of 1st Class.

S. 477A ⇒ falsification of accounts

Whoever being — Clerk/Officer →
Servant →

or employed or acting in the Capacity of a Clerk, Officer or Servant, willfully and with intent to defraud, destroys, alters, mutilates or falsifies any book, Paper, writing, valuable security or account which belong to or is in the Possession of the employer, or has been received by him for or on the behalf of his employer or willfully and with Intent to defraud, Makes or abets in the Making of any false entry. ⁱⁿ

Case - State of Punjab v. Rathan Chaud
1984 CrLJ NOC 153
(P&H)

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SECTION 477A

✓ In *State of Punjab v. Rathan Chand* [1984 CrLJ NoC 153 (P & H)], 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 Ss. 409, 467, 468 and 477-A, IPC.

In *State of Orissa v. Bishnu Charan Muduli* [1985 CrLJ 1573 (Ori)], the accused is a driver and cleaner and changed the number plate of their vehicle which was involved in the crime and also forged the registration book to tally with the changed number plate and repeat the same on the way, it was held that they were guilty of an offence under Section 471, IPC.

In *Harnam Singh v. Delhi Administration* [AIR 1976 SC 2140], the accused was a goods loading clerk of the Indian Railways. He was prosecuted and convicted for offence under Section 477A, IPC.

for falsifying certain entries in the marketing-cum-loading register to show that a certain consignment of cloth from a cotton mills was received on 10 January 1967 though he received on the next day as there was restriction on booking of goods from the next day, i.e., 11 January 1967.

It was the contention of the accused that he had no intention to defraud, as he had made an entry of the date of receiving the goods based on the intimation given by the timekeeper. And in any case, he had put the correct date under his signature in the same register as 11 January 1967.

In accepting his contentions, the Supreme Court said that 'wilfully' as used in Section 477-A, meant intentionally or deliberately doing an act. By the mere fact that some entries were made willfully, it need not necessarily imply that the accused did so with the intention to defraud within the meaning of Section 477-A. Appeal Allowed.