

Law of Crimes
FORGERY

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1 Forgery [S. 463]

463. Forgery.- 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 express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

The usual types of forgery are: simulation of writing by free hand, traced forgery, and disguised writing. Forgery is defined in Sections 463 and 464. As Section 463 would have it, making a false document with any of the intents mentioned therein is forgery and Section 464 explains as to when a person is said to make a false document.

Whoever makes any false document, with intent

- (a) to cause damage or injury:
 - (i) to the public, or
 - (ii) to any person, or
- (b) to cause any person to part with property, or
- (c) to cause any person to enter into any express or implied contract, or
- (d) to support any claim or title, or
- (e) to commit fraud or that fraud may be committed, commits forgery.

It must be noted that the definition of a false document [S.464] is a part of the definition of forgery and that the intent contemplated in Section 464 is an intent not different in its quality and aim from that prescribed by Section 463. These two sections are, therefore, closely related and hence the illustrations of forgery are found only under Section 464. In the year 2009, through the Information Technology (Amendment) Act, 2008, the words "digital signature" were replaced by "electronic signature", wherever they occur in this Chapter, to make the term technology-neutral and to also bring within the sweep of the law, forgeries of electronic images, etc.

A person is said to make a false document:

1. If he dishonestly or fraudulently:
 - (a) makes, signs, seals or executes a document or a part of it or makes any mark denoting the execution of a document,
 - (b) with the intention of causing it to be believed that such document or its part was made, signed, sealed or executed.
 - (i) by, or by the authority of a person by whom or by whose authority, he knows that it was not made, signed, sealed or executed; or
 - (ii) at the time at which he knows that it was not made, signed, sealed or executed; or
2. If he dishonestly or fraudulently, without lawful authority, by cancellation or otherwise:
 - (a) alters a document in any material part thereof,
 - (b) after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or
3. If he dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person:
 - (a) by reason of unsoundness or intoxication cannot, or
 - (b) by reason of deception practiced upon him, he does not know the contents of the document, or the nature of the alteration.

Explanation 1: A man's signature of his own name may amount to forgery.

Explanation 2 : The making of a false document in the name of (a) a fictitious person, intending it to be believed that the document was made by a real person, or (b) in the name of a deceased person, intending it to be believed that it was made by the person in his lifetime, may amount to forgery.

To constitute forgery the simple making of a false document is sufficient. What amounts to making a false document has been explained in Section 464 with profuse illustrations. It must be noted that in the absence of dishonesty and fraud making a false document is not an offence. Thus, obtaining signature on blank paper by itself is not forgery, it is an offence only when the paper is fabricated into a document contrary to the Indian Penal Code or when such document is used as genuine. The IPC defines forgery by two sections: Sections 463 and 464. Accordingly, a false document made with any of the intentions as mentioned in Section 463 gives rise to forgery and making a false document is explained in Section 464.

In Sections 463 and 464 the element of fraud is common. These sections as per the Calcutta High Court's opinion are, therefore, tautological. Sections 463 and 464 IPC are to be read together because definition of 'false document' given in Section 464 is a part of forgery as defined in Section 463.

Points to note

1. The offence of making a false document is complete as soon as a document is made with intent to commit a fraud.
2. It is not necessary that the document should be made in the name of a really existing person. It may be in the name of a fictitious person.
3. A general intention to defraud, without the intention of causing wrongful gain or loss to any particular person, is sufficient. There must however be a possibility of some person being defrauded.
4. It is not an essential quality of the fraud mentioned in the section that it should result in, or aim at, deprivation of property.
5. Concealment of an already practiced fraud, is fraud.
6. If several persons combine to forge an instrument and each takes a distinct part in it, they are nevertheless all guilty.
7. The word forgery is used in Section 463 as a general term and that section is referred to in a comprehensive sense in Section 195 CrPC. It comprises and embraces all species of forgery and thus includes a case falling under Section 467.
8. Counterfeiting a document to support a legal claim will amount to forgery.
9. Antedating a document may become forgery if the date is a material part of the forgery.
- 9-A. Intent to commit fraud is the test of forgery.
10. 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.
11. A man's signature of his own name may amount to forgery.
12. Offence of forgery can be abetted.

In *THE G.S. Bansa lv. Delhi Admn.* AIR 19673 SC , the Supreme Court explains the terms "dishonestly" and "fraudulently". In this case, a person who had given postal certificates as security to a department by taking them in the name of the said department died. The heir of deceased got retransfer of certificates in name of deceased and encashed them, by signing the name of deceased and attesting the same. The court held that heir of deceased committed forgery. The court observed that his heir could get the said amount by following two procedures, namely:

1. After obtaining a succession certificate, he can apply to the department concerned to release the security and then apply to the postal department of getting the certificate cashed; and
2. If the current value of the certificates at the time of the death of the holder does not exceed Rs. 5000, he can, after the expiry of three months from the date of the death of the holder, satisfy the Post-Master General that he is the sole heir of the holder and after making the relevant declaration recover the said money.

In the first case, he has to incur expenses for obtaining the succession certificate and in the other he has to wait for three months' and thereafter produce evidence to the satisfaction of the Post-Master General that he is the sole heir of the deceased holder of the certificates.

In this case the appellant had made false documents with an intention to cause wrongful gain to himself, by adopting the aforesaid device he secured for himself a gain as otherwise he would have had to incur some expense for obtaining a succession certificate. Even on the assumption that he would have received the money after satisfying the rationing authority and the Post-Master General, he secured an advantage by resorting to the said device, as he was relieved of the trouble of satisfying the rationing authority and the postal authority that he was the sole heir of his father and avoided the risk of their refusal, which would have entailed further delay. In that event he had secured an uneconomic advantage; in the former case, he had made the false documents dishonestly and in the latter case, fraudulently. In either case he committed forgery within the meaning of Section 463 IPC.