

# The of a false document or false electronic



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The section says that forgery means making of any false document or false electronic record or part of a document or electronic record. If there is no making of a false document or false electronic record or part of a document, or electronic record, the act cannot amount to forgery. The intention of the offender who makes a false document or false electronic record or part of a document or electronic record must be either 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 to commit fraud or that fraud may be committed. Section 464 explains as to what is meant by making a false document. It says that a person is said to make a false document or false electronic record in any one of the following three ways. First, who either dishonestly or fraudulently: (a) makes, signs, seals or executes a document or part of a document, (b) makes or transmits any electronic record or part of any electronic record; (c) affixes any electronic signature on any electronic record; makes any mark denoting the execution of a document or the authenticity of the electronic signature with the intention of causing it to be believed that such document or part of a document electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed either by authority of a person or by whom or by whose authority he has knowledge that it was not made, signed, sealed, executed or affixed; or secondly, who, without lawful authority, either dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after the same has been made, executed or affixed with electronic signature either by himself or by any other person, whether such person was living or dead when the alteration was made; or thirdly, who either dishonestly or fraudulently causes

any person to sign, seal, execute or alter a document, or an electronic record, or to affix his electronic signature on any electronic record with the knowledge that such person by reason of either unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not know the contents of the document or electronic record or the nature of the alteration.

It is important to note that all the three clauses of section 464 make dishonest or fraudulent intention on the part of the offender an essential requirement of making a false document. Thus, no false document or false electronic record can be made in the absence of dishonest or fraudulent intention. According to section 24 of the Code, doing anything with the intention of causing wrongful gain or wrongful loss means doing the thing dishonestly, and wrongful gain is the gain by unlawful means of property to which the person gaining is not legally entitled, and wrongful loss is the loss by unlawful means of property which the person losing it is legally entitled, according to section 23.

Section 25 says that a person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise. It is clear, therefore, that since forgery is making of a false document or false electronic record in full or part, and a false document or false electronic record can be made only with a dishonest or fraudulent intention, forgery requires the proof of dishonest or fraudulent intention on the part of the offender. The various illustrations under the main part of section 464 illustrate almost all the major aspects of making a false document and forgery. There are three explanations attached to section 464 which explain three important aspects

of this law. The first of these states that a man's signature of his own name may amount to forgery.

The illustrations under this explanation illustrate the point by showing that the offender must have dishonest or fraudulent intention if he is to be held guilty. The second explanation says that the making of a false document in the name of a fictitious person with the intention that it may be believed that the document was made by a real person, or in the name of a deceased person with the intention that it may be believed that the document was made by a person when he was alive, may amount to forgery. The illustration under this explanation illustrates the point clearly. The third explanation, inserted by the Information Technology Act, 2000, states that the expression "affixing electronic signature" shall have the same meaning as assigned to it by section 2(i)(d) of the Information Technology Act, 2000, that is to say, that with its grammatical variations and cognate expressions it means adoption of any methodology or procedure by a person for the purpose of authenticating an electronic record by means of electronic signature. Making a false document cannot amount to forgery if the document made is so substantially incomplete as not to be able to deceive anyone. Every forgery is a counterfeit but every concoction of a document is not forgery.

A charge of forgery must fail against a person who has not made the false document or who has not signed the same. Where a false document is made with a dishonest or fraudulent intention, it may amount to forgery even if it lacks in its essential requisites, that is to say, even if necessary formalities required under the law have not been complied with and it has not been

given the shape which the law requires it to be given. With intent to cause damage or injury to the public or to any person In forgery the intention of the offender must be to cause damage or injury to the public or to any person. Whether actual damage or injury results or not is of no consequence. Where the accused signed as the addressee while receiving a telegram, he could not be held guilty of committing forgery because there was no intention on his part to cause damage or injury to anyone. To support any claim or title Making any false document or part of a document with the intention to support any claim or title is forgery. Illustrations (f), (g), (h) and (i) especially point out to this aspect. Where a person counterfeits document in order to support a valid legal claim or title to property, he commits forgery.

A claim, however, is not limited to a claim over property. It may be with respect to anything such as for instance, a claim that a woman is his wife or that a child is his child. To cause any person to part with property Making a false document or a part of it with the intention to cause any person to part with property is forgery. It is not necessary that he does part with the property. To enter into any express or implied contract Making a false document in full or in part with the intention to cause any person to enter into any express or implied contract is forgery.

Whether he succeeds in his efforts or not is another question. With intent to commit fraud or that fraud may be committed Making a false document in full or in part with the intention of committing fraud or that fraud may be committed amounts to forgery. Whether the fraud is successful or not is not important. Fraud involves an intention to deceive and risk of a possible injury

by means of the deceit. The advantage intended to be secured or harm intended to be caused is not limited to property.

An intent to defraud may be gathered from a deliberate use of a forged document to support a claim. Having authority of another to write his name to an acceptance does not amount to forgery. Where a married woman had given authority to her husband to file papers in court on her behalf, and the husband forged her signature on a plaint on the last day of its submission in the court with a view to save it from being barred by limitation, he was not held guilty of forgery as there was no dishonest or fraudulent intention on his part, even though this was an improper act.

Cases The accused who obtained the genuine signature of the person signing, on a forged document, which he mixed with other genuine documents for signatures cannot be held guilty of forgery on the ground that he had not practised deception on the person signing who was free to go through the document before putting his signature on it. Where the prosecution could not establish its case that the accused had transported first quality tobacco but showed on the records that he had transported a lower quality tobacco and as such only a lower duty was payable, he could not be convicted of forgery. Antidating a document, in the absence of dishonest or fraudulent intention, does not amount to forgery even if the same has been done to defeat the provisions of an Act. A handwriting expert's opinion which is so important in forgery cases must be received with utmost caution and should normally be corroborated by other evidence. Attesting someone's signature with the knowledge that the person whose signature he is attesting was not the person who had signed is forgery.

Similar is the liability read with section 114 of a person who identifies a wrong person as the deponent before an oath commissioner. Where the accused changed the date of a document so that it could be presented within time for registration, he would be guilty of fabricating false evidence and not of forgery as there was no dishonest or fraudulent intention on his part since the bond was genuine, nor was there any intention on his part to support a false claim or false title by a false bond. Where the allegedly forged document itself was not found, it could not be said that the court could never convict the accused of forgery but the evidence for doing so must be so strong as to negative all probability of a reasonable doubt. Where the accused who was indebted to the complainant to the tune of some amount was asked by him to write the same in an account book but instead he wrote in another language, not known to the complainant, that he had paid all his dues, it was held that he was guilty of cheating and not of forgery. Antedating a document with a view to save an appeal amounts to forgery. A person taking an active part in the preparation of a document but no part in writing the name of the executant cannot be held guilty of forgery, but he is guilty of attempted forgery.

Where the accused added some genuine expenses in his travelling allowance bill after the bill had already been countersigned by his officer, it was held that he had not committed forgery because dishonest or fraudulent intention on his part could not have been proved. The accused who was a school inspector prepared false pay bills containing false claims of salaries for teachers under his own signatures. Some of these teachers had not worked under his jurisdiction while some others were purely fictitious.

He encashed them from the treasury. It was held that even though he had made false document, he could not be held guilty of forgery since neither had he made signature of another person nor did he copy another person's writing, and he had also not altered the pay bills. But where a tenant applied to the department of electricity to give him electricity connection, but since the same could not be given unless the landlord consented for the same he forged the consent letter of his landlord, it was held that he was guilty of committing forgery. The accused was in possession of a promissory note which expressed no time for payment.

He added the words 'on demand' without the assent of its maker. It was held that he could not be convicted of forgery because the alteration only expressed the effect of the note as it originally stood but did not affect its validity. The accused got invitation cards printed of the solemnisation of his marriage with the respondent, a young rich woman, without her consent. The invitations were issued in the names of other persons without their consent or authority and were distributed to friends, relatives and others. It was published in the local newspapers also.

It was held that the marriage invitations were forgery committed by the accused by which he had made a bold deceitful experiment to entrap the respondent girl to force her to give her consent for the marriage, and that it would give him material profit as well. But where the accused got certain receipt forms, similar in appearance to those of another company, printed after correcting the proof of the printing himself, and his intention for doing so was to use these later on, it was held that he was not guilty of forgery because till then he had not used any such document, and not of attempted



forgery also because till then he had not made any attempt to commit forgery as his act was still in the stage of preparation. Obtaining a voting paper by putting a thumb impression in the name of another person and passing it on in that name amounts to forgery. Where the clerk of an advocate forged the signature of another advocate on a surety bond and entered certain endorsements for the purposes of identification and attestation, it was held that it was a forgery punishable under section 465 and not under section 468. Counterfeiting letters or marks imprinted on trees with the intention of using the same as evidence to establish that the trees had been passed for removal by the forest ranger would amount to forgery. Where the Chief Minister of a State made certain alterations in the contents of a document while the file had never left his office and no one had gained any advantage or suffered loss by it, it was held that the section was not attracted.

Where the accused falsely represented at a university examination that he was another person and got a hall ticket in that person's name and signed and wrote answer papers in that person's name, he was held guilty of cheating by personation and forgery. Making an application in another's name without any intention of causing harm to any one does not amount to forgery.