

Understand the Meaning of Cheating and Forgery under IPC

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CHEATING

Principle: Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”

Following are the essential ingredients of cheating:

1. Deception: the word ‘deceive’ means to cause someone to believe what is false or mislead or trick him to some error by words or conduct. However a simple misrepresentation of quality of goods is not a false pretense i.e. untrue praise of goods meant for sale do not amount to cheating.
2. Dishonest or fraudulent intention: the person so deceiving must dishonestly i.e. intention to do wrongful loss or have wrongful gain or fraudulently i.e. intention to injure any unascertained property or person induce any person to deliver any property or to do some act or omit to do anything which the person so deceived otherwise would not have done. It is important that dishonest intention must accompany the dishonest act i.e. a dishonest intention cannot be drawn merely from the fact that a person was subsequently unable to fulfill his promise due to change of events. In order to constitute cheating it is required that the person under deception actually delivers the property or does or omits to do the act which is detrimental to his interest.
3. Causes damage or harm: there should be causation or likelihood to cause damage or harm to the mind, body, property or reputation of the person so deceived and not to any other person.

However the damage caused should be under the influence of deceit and it should not be too remote



FORGERY

Principle: Whoever makes any false documents 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.

A person shall be liable for the offence of forgery if he makes a false document with an intention to:

- Cause damage or injury to any person or public
- Cause any person part with the property
- Enter into any express or implied contract
- Support any claim or title

- Commits or may commit any fraud

A person is said to make a false document if:

- He dishonestly or fraudulently makes, signs, seals or executes a document with the intention of causing it to be believed that such document was made, signed, sealed or executed by the authority of person by whose authority he knows that it was not made, signed, sealed or executed.
- He dishonestly or fraudulently without lawful authority by cancellation or otherwise alters the document in material part.
- He dishonestly or fraudulently causes any person to sign, seal, execute or alter a document knowing that such person by reason of unsoundness, intoxication or deception does not know the contents of the document or nature of alteration.

However a general intention to defraud without the intention of causing wrongful gain or loss to any particular person is sufficient to make a person liable for the offence. Causing actual damage, injury or fraud is not necessary what is essential is the requisite intention to commit the offence. Counterfeiting a document to support a legal claim will amount to forgery.

To sit at an examination falsely personating another and signing paper in that other's name amount to forgery and also cheating by personation.

STOLEN PROPERTY

A property is considered as stolen property when it is obtained through theft, extortion, robbery, dacoity, criminal misappropriation, criminal breach of trust and not through cheating and as soon as any such offence is committed in respect of that property it comes into the possession of the accused.

The moment the property is restored to the original owner it ceases to be stolen property.

Following persons shall be liable for the offence of stolen property:

- Any person who receives or retains stolen property knowing or having reason to believe that such property is stolen shall be guilty of the offence. E.g. A gives a gold necklace to his wife 'W' which he has extorted from X saying that he has purchased it from the jeweler shop on installments. Here only A will be liable for the offence as W retains the stolen property under

good faith.

- Any person who habitually deals in the property which he knows or has reason to believe that it is stolen shall also be guilty of the offence. E.g. 'A' a jeweler purchases a diamond ring from X for 1000 rupees and sells it further. Here A and X both shall be liable as A being jeweler must have reason to believe that a diamond ring being sold for 1000 rupees only must not have a legal transmission and also if it is proved that A has been dealing in such property on previous occasions also.
- Any person who voluntarily assists in the concealment of the property which he knows or has reason to believe that it is stolen shall also be guilty of the offence. E.g. A asks his wife 'W' to hide a mobile phone which he has stolen from X and W does so then both A and W shall be liable for the offence.

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