

Cheating :section 415 of IPC

There are following ingredients :

1) There should be a deception of any person .Deception means causing to believe what is false or misleading as a matter of fact or leading into an error .(Ramdas v.state of U.P. 1971 2S.C.J.264)

Students you can see illustration e where it is mentioned that A deceives Z by pledging him a diamond article which is in reality not Diamond but a fake article and Z is dishonestly induced and lends money to A. Now offence of cheating is completed because if Z would have known that the article is not real then he would have refused to give the money so the real fact was concealed from Z.

It is not necessary that the false pretence should be made in express words. It can be inferred from the circumstances .

2)There was a fraudulent or dishonest inducement to deliver any property or to consent that any person should retain the property.

(see the case of NM Chakraborty and others 1977 CrLJ)

3) The person was intentionally induced to do or omit to do anything which he would not do or omit if he would have known the reality .

Intention at the time of the offence and the consequence of the act or omission itself have to be considered .(Harendra Nath Das v. Jyotish Chandra Datta 1924 52 cal. 188)

From mere failure to keep up the promise subsequently, such a culpable intention right at the beginning that is, when he made the promise cannot be presumed.(Hiralal Harilal Bhagwati v. CBI, New Delhi)

4) Such an act or omission causes or is likely to cause damage or harm to that person in body ,mind ,reputation or property. e.g.if a customer goes to the shop to purchase gold ornaments and there a person who owns the shop shows him a golden chain and tells him that it is a 22 carat gold but in reality it is of 6 carat then this act will amount to cheating .

((Ram ji Lakhams v. Harshadrai1959)

(RB Maske v.KS Shelke)1975 CrLJ 173 Bom.))

Punishment for cheating :section 417

Imprisonment may extend upto one year or with fine or both.

Cheating by personation:

It is mentioned in section 416 .Personation means to pretend to be a particular person.

Let us take an example where A represents himself to be B at the University examination .He got a hall ticket under B's name and wrote papers in B's name. He has committed the offence of cheating by personation because he represent himself to be some other person which he is not in reality.

Ingredients:

- 1) Pretention by person to be some other person.
- 2)There is a knowledge that one person is substituted for another.
- 3)Accused represents himself or another to be a person other than he or such other person really is.

(Appasamy case1889), (MNA achar v. Dr.DL Rajgopal1977)

Punishment for cheating sec 419

Imprisonment may be up to three years or with fine or with both .