

GUPTA'S

**Law of
Forgeries,
Counterfeiting
& Cheating**

3rd Edition 1982

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R. L. GUPTA'S

Law of Forgeries, Counterfeiting and Cheating

Revised by

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PREFACE TO THE THIRD EDITION

Much water has flown ever since the last edition was published. The present revised edition is a change from the previous editions in both quantity and quality, bigger with case-law and richer with new themes and new aspects discussed and dealt with. A new Code of Criminal Procedure has brought with it new features. The specialised treatment of the offences in this treatise would have remained incomplete without notice of those features. The provisions on trade-marks have been repealed and replaced by the Trade and Merchandise Marks Act, a separate enactment more comprehensive and dealing with a wider range of problems. There was a single Chapter in the previous edition dealing with both trade and property marks as there were common provisions in the Penal Code for both. The present edition splits property marks from trade marks and treats property marks in a single self-contained Chapter. Trade Marks have been treated in three Chapters to accord with their distinct and extensive aspects, the basic concepts about falsification of trade marks analysed in one Chapter, infringement and passing off, both kinds of falsification, defined and distinguished in another and offences alongside their cognizance, the limitation for them, the nature of *mens rea* and vicarious liability between master and servant, principal and agent, discussed in the third. While the popular concept about infringement and falsification of trade marks is restricted to the goods themselves, the legal concept extends to the use of trade marks on packages and in advertisement ; the form and the shape of receptacles without any figure or writing upon them, may also constitute infringement and attract the penal provisions of the Act.

Fraud and forgery with counterfeiting—an extension of the forgerer's skill to currency and Government stamps—the infringement of trade marks and cheating including within it both fraud and dishonesty, have all a common base in deception. They belong to the same family or group but differ from each other in operation and magnitude. Forgery, counterfeiting and infringement are objectively visual, detectable with scope for employment of scientific methods and technique. The Chapters on handwriting and type-script have been developed with more useful details for practical guidance. A new Chapter on the law of expert and opinion evidence, incorporating the provisions relating to experts, the Master of the Mint, the Director of the Finger-print Bureau and proof of their reports dispensing with their personal examination as witnesses, was found necessary.

The Constitutional aspect, the judicial review of the law, a thread-bare comparative analysis and historical treatment, the classification of case-law under suitable synopsis heads, exhaustive for reference according to varying facts and circumstances and selective for scientific cognition, are the distinctive features of the present edition. While readapting and readjusting the book, as it originally was, has grown, alongside increase in volume, into a more serious, extensive and intensive approach to the subjects under study. A well-arranged synopsis and a copious index facilitate reference.

The book would not have been what it is but for the interest taken and help given by M/s. Law Book Co., Allahabad, the Publishers who do not seem to have left any legal subject from the extensive range of their widely popular publications.

April 5, 1982

R. N. SAXENA

PREFACE TO THE SECOND EDITION

The handy manual on Forgeries, Counterfeiting and Cheating has proved popular since its first appearance in 1963 and a second edition has been called for.

The present edition preserves the pattern of the first. The intervening years have yielded a rich crop of decisions of the Supreme Court as well as the High Courts. These decisions have been called from the reports and duly incorporated in the commentary. The case-law has been brought up to date and necessary alterations and additions have been made to attune the work to the latest law. A valuable Index at the end is a boon to the busy reader for quickly obtaining the reference on any point of law in the field covered. No pains have been spared to make the work of the maximum utility to the criminal lawyer no less than to the Bench.

It is hoped that the second edition will, like the first, deserve the approbation of the Bench and the Bar.

New Year's Day, 1971

V. SUBBA RAO

PREFACE TO THE FIRST EDITION

In common parlance the fraudulent making or alteration of a writing to the prejudice of another man's right is 'forgery'. The causing of one thing to resemble another with the intention of practising deception by such resemblance is 'counterfeiting' : and all these 'deceitful practices' put in use in defrauding or endeavouring to defraud by some artful device contrary to the plain rules of common honesty is 'cheating'. It is clear from these popular notions that these three subjects are closely allied and form a distinct branch of the law of crimes justly meriting a separate study quite independent of the other branches of the substantive criminal law.

It is with the avowed object of providing such an independent study that the present booklet has been designed. Each of the main topics relating to these subjects forms part of a separate Chapter. The ingredients of the substantive law pertaining to a topic along with the essentials of practice and procedure based on the relevant adjective law and the proof required have been fully dealt with and commented upon in the light of the very important decided cases. As the law relating to these subjects as obtaining in India is not exactly the same as in England and other foreign countries only the Indian case-law has been concentrated upon in order to make the commentaries of the maximum usefulness to the Indian reader. In order to correctly appreciate and analyse substantive laws relating to these offences some elementary knowledge of the technical side is very essential. This need has been fulfilled by chapters devoted on finger-prints, handwriting and typescripts containing the requisite knowledge of the basic principles relating to expert comparisons. Full use has been made of the renowned works of authority bearing on these subjects.

The commentaries under the chapters have been divided in the various heads and sub-heads in order to provide a systematic study. The language employed is simple and clear so as to make the work useful not only for the Bench and the Bar, but also for the police and other officers. No less will the lay-mind find the Manual immensely useful.

The first even chapters have been devoted to forgery and making of false documents including valuable information of comparisons of finger-prints, handwriting and typescripts ; separate chapters have been devoted to the matters of punishment and uses of the forged documents. Next seven chapters embrace the subject of counterfeiting. Apart from counterfeiting as such discussions include the counterfeit coins, diminished, defaced coins, Government stamps, trade and property marks, currency and bank notes. The next three chapters have been devoted to cheating in its different variations including fraudulent deeds and disposition of property. The last chapter is exclusively devoted to the topic of court complaint in respect of forged documents.

In short, all attempt has been made to prove the work as a handy companion from day to day, containing all what is required to be known on, or relating to these subjects.

It is fondly and reasonably hoped that the work deserves the approbation of all concerned.

Dated 1st June, 1963

RAM LAL GUPTA

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