To Attract Offence Of Cheating, False Representation Should Be Of Material Fact Which Would Induce Victim: Supreme Court

The appeal before the Supreme Court was directed against the judgment of the Andhra Pradesh High Court refusing to quash proceedings in a case registered under Section 420 of the IPC.

By Tulip Kanth | 11 Sept 2025 2:00 PM

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REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2025
(Arising out of SLP (Crl.) No.9744 of 2024)

Jupally Lakshmikantha Reddy .... Appellant(s)

Versus

State of Andhra Pradesh & Anr. .... Respondent(s)

J U D G M E N T

Joymalya Bagchi, J.

1. Leave granted.

2. The appeal is directed against judgment and order dated 18.04.2024 in Criminal Petition No. 2197/2021 passed by High Court of Andhra Pradesh whereby the High Court refused to quash proceedings in CC No. 303 of 2020 under Section 420 of the Indian Penal Code, 1860[1].

3. Appellant's society namely, JVRR Education Society is running a college since 2016 from a non-multi-storeyed building comprising ground – 03 upstairs, with a height of 14.20 metres. On 13.07.2018,

[1] Hereinafter "IPC".

one V. Sreenivasa Reddy, District Fire Officer, Kurnool, submitted a written complaint alleging that the college had obtained recognition certificate from the School Education Department to run the educational institution by submitting a forged no-objection certificate[2] purportedly issued by Assistant District Fire Officer, Kurnool. The said complaint was registered as a First Information Report by Nandyal III Town PS in Crime No. 99/2018 on 15.07.2018 under Sections 420, 465, 468, 471 IPC corresponding to CC No. 303/2020 on the file of Judicial Magistrate, Nandyal.

4. On conclusion of investigation, chargesheet was filed under Section 420 IPC. In the chargesheet, it was, *inter alia,* alleged that the Inspector of Police (LW 8) visited the District Fire Office and came to know the District Fire Officer had not issued the NOC, and only a xerox copy of the Fire NOC was submitted in the office of State Council of Educational Research and Training[3] to obtain recognition and run the institution. In spite of efforts, the alleged fabricated document could not be recovered and chargesheet was filed alleging appellant had created a forged document, namely NOC, and used it

[2] Hereinafter "NOC".
[3] Hereinafter "SCERT".

as genuine to play fraud on the Education Department and District Fire Office, Kurnool, which is punishable under Section 420 IPC.

5. Admittedly, as per National Building Code of India, 2016,[4] NOC from the officer concerned of the Fire Department was not necessary for educational buildings which were below 15 metres in height. Appellant's society was running the educational institution from a building having height of 14.20 metres. Given this situation, appellant's society and other educational institutions had instituted writ proceedings in WP No. 14542/2018 before the High Court and prayed for renewal of affiliation without insisting on fire NOC from the State Disaster Response and Fire Services Department.

6. By order dated 25.04.2018, the writ petition came to be allowed and directions were issued upon the Education Department to renew affiliation without insisting on furnishing fire NOC. Due to non-compliance of such direction *vide* letter dated 01.07.2019 contempt notice was issued upon Education as well as the Fire Department.

7. It is contended that as a counter-blast, the present criminal case came to be registered to intimidate and harass the appellant. In

[4] Rule 4.6.1.4, National Building Code of India.

this backdrop, appellant approached the High Court to quash the said proceeding.

8. The High Court was of the view, the issue whether the appellant's society required a NOC from the Fire Department to run the educational institution cannot be considered at the preliminary stage and refused to quash the proceedings.

9. Heard Mr. Sridhar Potaraju, learned senior counsel for the appellant and Ms. Prerna Singh, learned counsel for the respondents.

10. The gist of the accusation in the impugned chargesheet is that the appellant had dishonestly used a fake NOC from the Fire Department to obtain recognition/renewal of affiliation to run the educational institution. It is evident from the order passed in the writ proceedings that NOC from the Fire Department was not necessary for recognition/renewal of affiliation of educational institutions which are imparting education from the buildings having height below 15 metres.

11. Admittedly, the appellant's educational institution is in a building having height of 14.20 metres and no NOC affiliation from the Fire Department is necessary for obtaining recognition/renewal.

12. The ingredients of the offence of cheating are as follows:

1) Deception of a person by making false representation which the maker knows or has reason to believe is false and thereby

2) (a) Fraudulently or dishonestly inducing such person:

(i) to deliver any property to any person, or

(ii) to consent that any person shall retain any property, or

(b) Intentionally induces that person 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.

13. The words 'dishonestly' and 'fraudulently' are defined as follows:

> *''24. "Dishonestly"—*
>
> *Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly".*
>
> *25. "Fraudulently"—*
>
> *A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.''*
>
> Section 23 IPC defines wrongful loss/ wrongful gain:

> *""Wrongful gain": Wrongful gain is gain by unlawful means of property to which the person gaining is not legally entitled.*
>
> *"Wrongful loss": Wrongful loss is the loss by unlawful means of property to which the person losing it is legally entitled."*

Reading the ingredients in the backdrop of these definitions, it is evident in order to attract the offence of cheating, a person must knowingly make a false statement which would induce another to part with property or to do or omit to do a thing which the latter would not do or omit unless deceived and thereby is likely to suffer damage/harm in body, mind, reputation or property.

14. In *Dr. Sharma's Nursing Home v. Delhi Admn. & Ors.,*[5] this Court held mere deception by itself would not constitute cheating unless the other essential ingredient, i.e., dishonest inducement is established. This Court held as follows:

> "*…both the learned courts have rested their findings on deception only and did not go into the question whether the complaint and its accompaniments disclosed the other essential ingredient of the offence under Section 420 IPC, namely, dishonest inducement. "Dishonesty" has been defined in Section 24 IPC to mean deliberate intention to cause wrongful gain or wrongful loss; and when with such intention, deception is practised and delivery of property is induced then the offence under Section 420 IPC can be said to have been committed…"*

[5] (1998) 8 SCC 745, para 3.

15. In *Hridaya Ranjan Prasad Verma & Ors. v. State of Bihar & Anr.,*[6] this Court reiterated that Section 415 IPC contemplates two distinct situations; the first where a person is dishonestly induced to deliver property, and the second where a person is induced to do or omit an act which, but for the deception, he would not have done or omitted. In the former, the inducement must be fraudulent or dishonest, whereas in the latter it need only be intentional. Therefore, intention is the gist of the offence.

16. It is strenuously argued the appellant had used a fake NOC from the Fire Department and thereby held out a false representation that he possessed a valid NOC to obtain recognition/renewal of affiliation for his institution. Uncontroverted allegations in the charge sheet including the order in the writ proceedings, unequivocally show NOC from the Fire Department was not necessary for grant of such recognition/renewal of affiliation as the height of the appellant's building was below 15 metres. Given this situation, the representation of the appellant that he possessed a valid NOC cannot be said to have induced the Education Department to grant

[6] (2000) 4 SCC 168, paras 13-15.

recognition or renew the affiliation. To attract penal consequences, it must be shown that the false representation was of a material fact which had induced the victim to either part with property or act in a manner which they would not otherwise do but for such false representation. In the absence of such vital link between the alleged false representation and the issuance of recognition/renewal of affiliation, the essential ingredient of offence is not satisfied.

17. Ms. Prerna Singh has also argued that though the chargesheet has been filed under Section 420, the contours of the offence of forgery are evident as the appellant has knowingly used a fake document.

18. We are unable to accept her submission on this score too. There is nothing on record to show the appellant had manufactured the alleged fake document which is a *sine qua non* to attract Section 465 IPC.[7] In fact, the original fabricated document had not been recovered.

[7] Punishment for forgery.

19. In *Sheila Sebastian v. R. Jawaharaj & Anr.,*[8] this Court held to attract Section 464 IPC,[9] the prosecution must establish that the accused had made the fake document. No material connecting the appellant to the making of the fake document has been adduced in the impugned charge sheet.

20. Similarly, offences under Section 468 IPC[10] and Section 471 IPC[11] are not attracted, as the requisite *mens rea*, i.e., dishonest intention to cause wrongful loss to the Education Department and wrongful gain to himself has not been demonstrated as the issuance of the recognition was not dependent on the production of the alleged forged NOC.

21. The High Court failed to consider these relevant issues which clearly demonstrate that the uncontroverted allegations in the chargesheet, in the teeth of order dated 25.04.2018 in WP No. 14542/2018, do not disclose essential ingredients of cheating or forgery. Accordingly, we set aside the impugned order of the High

[8] (2018) 7 SCC 581, para 25.
[9] Making a false document.
[10] Forgery for purpose of cheating.
[11] Using as genuine a forged document or electronic record.

Court, quash the proceedings in CC No. 303/2020 under Section 420 IPC and allow the appeal.

22. Pending application(s), if any, shall stand disposed of.

.....J.
(B.V. NAGARATHNA)

.....J.
(JOYMALYA BAGCHI)

NEW DELHI,
SEPTEMBER 10, 2025