

Offences against Property

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Theft

- **Sec 378** of IPC defines theft as:
- *Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.*
- Eg: A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft.

Theft

- **Ingredients of Theft:**

1. There must be **dishonest intention** to take the property.
2. The property must be **movable**.
3. It should be **taken out of the possession** of another person.
4. It should be taken **without the consent** of that person.
5. There must be **some moving of the property** in order to take it.

Theft

1. **There must be dishonest intention to take the property.**
 - The word **dishonestly** is defined **u/s 24** of IPC.
 - It states that 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”.
 - **Sec 23** defines “**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.

Theft

2. The property must be movable.

- Sec 22 of IPC defines “movable property” as to include **corporeal property of every description, except land and things attached to the earth** or permanently fastened to anything which is attached to the earth.
- A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.
- ***Bhaiyalal vs State of MP*** (1993 CrLJ 29)
- Here the Court held that the act of cutting trees standing on government land amounts to theft u/s 378 of IPC.

Theft

➤ ***Avtar Singh vs. State*** (AIR 1965 SC 666)

- In this case, the accused was charged for having committed theft of electricity.
- Here the Supreme Court held that electricity is an energy and cannot be considered as movable property and that sec 378 by itself would not include a theft of electricity.
- However, theft of electricity is deemed to be an offence under IPC as sec 39 of Electricity Act enables punishment u/s 379 of IPC.

Theft

3. It should be taken out of the possession of another person:

- The word possession is not defined in IPC.
- A movable thing is said to be in the possession of a person when he is so situated with respect to it that he has the power to deal with it.
- Salmond describes **possession**, as a relationship between a person and a thing, the test for determining whether a person is in possession of anything is whether **he is in general control of it**.
- Eg: A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

Theft

- *Pyare Lal Bhargawa vs. State of Rajasthan* (AIR 1963 SC 1094)
 - In this case, the accused took a file from the government office to his house for a day and made it available to a person to facilitate the removal of some papers and insertion of some.
 - Thereafter the file was kept in the office.
 - Here the issue before the Court was whether the act amounted to theft.

Theft

➤ *Pyare Lal Bhargawa vs. State of Rajasthan Cont...*

- Here the Court held that when the file was unlawfully taken away from the department, he deprived the department of the possession of file and caused wrongful loss to the department.
- So it was held that it amounted to an offence of theft though it was merely temporary dispossession.

➤ **Punishment for Theft:**

- Whoever commits theft shall be punished with **imprisonment** of either description for a term which may **extend to three years**, or with fine, or with both.

Extortion

- **Sec 383** of IPC defines extortion as:
- *Whoever intentionally **puts any person in fear** of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, or valuable security or anything signed or sealed which may be converted into a valuable security, commits “extortion”.*
- Eg: A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

Extortion

- **Ingredients of Extortion:**

1. Intentionally puts any person in **fear of injury**.
- The factor of fear of injury shows that the consent of victim is not free consent
2. **Dishonestly induces** a person who is put in fear to deliver property.
- Dishonest inducement means that a person would not have agreed to give his property which causes him a wrongful loss.

Extortion

- **Punishment for Extortion:**
- Sec 384 provides punishment for extortion which states that *whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.*

Extortion

- *Romesh Chandra Arora vs State* (AIR 1960 SC 154)
 - In this case, the accused had written letters to one 'X', enclosing the **photograph of the daughter of X in the nude state** and which if made public, would undoubtedly compromise the reputation of the girl as well as the father.
 - The accused **demand money from X and threatened him stating that he would circulate the photograph** to the relatives of the girl if the money is not paid. So the father paid the money because of threat.
 - Here the Court convicted the accused for extortion.

Difference

Theft

1. Consent is not obtained.
2. Theft can be committed only with respect to movable property.
3. No element of Threat.
4. In theft, the accused takes the property himself.

Extortion

1. Consent obtained by fear.
2. Extortion can be committed with respect to movable and immovable property.
3. Element of Threat.
4. In extortion, usually the property is delivered to the accused person.

Robbery

- **Sec 390** states that in all robbery there is either theft or extortion.
- **When theft is robbery.**—*Theft is “robbery” if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.*
- Eg: A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

Robbery

- **Sec 390** states that in all robbery there is either theft or extortion.
- **When theft is robbery.**— (Ingredients)
- It states that **in order to commit theft or committing theft or carrying away or attempt to carry away property** obtained by theft.
- If a person voluntarily causes or attempts to cause;
 - a) **Death, hurt or wrongful restraint** or
 - b) Fear of instant death or of instant hurt, or of instant wrongful restraint.

Robbery

- **When Extortion is robbery.**—*Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.*
- Eg: A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

Robbery

- **When Extortion is robbery.**— (Ingredients)
- The accused at the time of committing extortion is in the **immediate presence of victim.**
- Puts the victim in **fear of instant death**, or of **instant hurt** or of **instant wrongful restraint.** (Such fear can be to the person or some other person)
- Out of this fear there is **delivery of property.**

Robbery

➤ **Punishment for Robbery.**— (Sec 392)

- *Whoever commits robbery shall be punished with rigorous **imprisonment** for a term which may **extend to ten years**, and shall also be liable to fine; and, if the **robbery be committed on the highway between sunset and sunrise**, the imprisonment may be **extended to fourteen years**.*

Robbery

- *Harinder Singh vs. State of Punjab* (AIR 1993 SC 91)
 - In this case, the **accused was a gunman** in Roadways Transport Corporation.
 - Here the accused **caused injuries to the cashier in the same corporation and confined him in a room** and bolted it from outside.
 - Thereafter the accused was arrested.
 - Here the Court convicted the accused for robbery.

Robbery

➤ *Trilok Singh vs. Satya Deo* (AIR 1979 SC 850)

- In this case, the complainant had purchased a truck on hire-purchase basis from Finance Corporation.
- The complainant paid the first two monthly instalments and **defaulted on the payment for third instalment.**
- According to the complainant, the accused in a highhanded manner came to his house and in spite of protest by his wife, forcibly, under threat of arms, removed the truck and thus were said to have committed the offence of robbery.

Robbery

➤ *Trilok Singh v Satya Deo Cont.....*

- Here, the Supreme Court held that the **version of the complainant was very untrustworthy.**
- It held that the **seizure of truck was a bona fide right exercised by the accused on the failure of the complainant to pay the third instalment.**
- **Nobody was hurt** on the side of the complainant. Under these circumstances, it was held that no offence of robbery was made out.

Dacoity

- **Sec 391 defines dacoity** as:
- *When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit “dacoity”.*

Dacoity

➤ **Ingredients of dacoity:**

- **Five or more person** must act in association.
- Such **act must be robbery or attempt** to commit robbery.
- The five person must consist of those who **themselves commit** or attempt to commit robbery or **those who are present and aid** the principal actors in the commission of such robbery.

Dacoity

- **Punishment for dacoity:** (Sec 395)
 - *Whoever commits dacoity shall be punished with **imprisonment for life**, or with **rigorous imprisonment** for a term which may **extend to ten years**, and shall also be liable to fine.*

Dacoity

- ***Ram Shanker Singh vs. State of Uttar Pradesh*** (AIR 1956 SC 441)
 - In this case, **six persons** were charged with committing dacoity. **Three out of six persons were acquitted.**
 - The charges frame did not indicate that along with the six persons there were other unknown persons with them, who had committed dacoity. Since three persons were acquitted, there were only three other persons left as the persons involved with the crime.
 - Hence, it was held that the **three persons could be convicted only to the lesser offence of robbery** under section 392, IPC, and not for dacoity under section 395, IPC.

Criminal Misappropriation

- **Sec 403** of IPC defines **Dishonest misappropriation of property** as:
- *Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*
- Eg: A takes property belonging to Z out of Z's possession, in good faith believing at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

Criminal Misappropriation

- Explanation 1.—A dishonest misappropriation for a time only is a misappropriation with the meaning of this section.
- Eg: A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security or a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

Criminal Misappropriation

- Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the **purpose of protecting it** for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and **is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use**, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

Criminal Misappropriation

- Eg: A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

Criminal Misappropriation

- **Ingredients of Dishonest misappropriation of property:**
 1. The property should be **movable**.
 2. The accused should **take the property for his own use**.
 3. The accused should **dishonestly** do this act.

Criminal Misappropriation

➤ *Shamsoondar vs Emperor* [(1870) 2 NWP 475]

- In this case, the **complainant by mistake paid a particular amount to the accused** person instead of the another person.
- When the complainant **realized his mistake then he came to ask the money back** from the accused.
- But the **accused refused** to give the money and **he has used the money for himself**.
- Here the **court held the accused guilty of dishonest misappropriation** of property.

Criminal Breach of Trust

- **Sec 405** of IPC defines **Criminal Breach of Trust** as:
- *Whoever, being in any manner **entrusted with property**, or with any dominion over property, **dishonestly misappropriates** or converts to his own use that property, or dishonestly uses or **disposes of that property in violation of any direction of law** prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits “criminal breach of trust”.*

Criminal Breach of Trust

- **Sec 405** of IPC defines **Criminal Breach of Trust** as:
 1. Eg: A, being **executor to the will of a deceased person**, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.
 2. Eg: A is a **warehouse-keeper**. Z going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

Criminal Breach of Trust

- **Ingredients of Criminal Breach of Trust as:**
 1. The accused must be **entrusted with property** or control over the property.
 2. The person so entrusted must-
 - i. **Dishonestly misappropriates** or converts that property to his own use, or
 - ii. **Disposes of that property** in violation of any law or any legal contract.

Criminal Breach of Trust

- **Sec 406** of IPC provides **Punishment for Criminal Breach of Trust** as:
- *Whoever commits criminal breach of trust shall be punished with **imprisonment** of either description for a term which may **extend to three years**, or with fine, or with both.*

Criminal Breach of Trust

➤ *Keshawrao vs State* [(1934) 36 Bom LR 1120]

- In this case, the accused was a **supervisor of the society**.
- Here the accused **dishonestly misappropriated the amount which was to be paid to the cleaner of the society**.
- Here the Court held the accused guilty of Criminal Breach of Trust.

Cheating

- **Sec 415** of IPC defines **Cheating** as:
- *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”.*
- Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Cheating

- **Sec 415** of IPC defines **Cheating** as:
 1. Eg: A, by **falsely pretending to be in the Civil Service**, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.
 2. A, **by putting a counterfeit mark on an article**, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

Cheating

- **Ingredients of Cheating :**

1. **Deception** of any person

2. a) **Fraudulently or dishonestly** inducing that person-

- i) **to deliver any property** to any person; or

- ii) **to consent** that any person shall retain any property; or

- b) **intentionally inducing that person to do or omit** to do anything which will cause damage to body, mind, reputation or property.

Cheating

➤ ***K R Kumaran vs State of Kerala*** (1961 CrLJ 98)

- In this case, a person was admitted to the hospital. Here the doctor was knowing the fact that the person is going to die.
- So, he conspired with other accused to issue a life insurance policy of that person and certified that the person is fit and healthy.
- This was done in order to get the insurance amount from the company after the death of that person.
- Here the Court held all the accused person guilty of cheating.

Cheating

- *R S Nayak vs. A R Antulay* (AIR 1986 SC 2045)
 - In this case, the accused has established a **Trust** known as **Indira Gandhi Pratibha Pratishthan**.
 - Here the accused falsely **declared that this is a government trust**, so that maximum money can be contributed by the public.
 - Here the Court held the accused guilty of **cheating**.

Cheating

➤ **Punishment for Cheating:**

- **Sec 417** of IPC states that whoever cheats shall be punished with **imprisonment** of either description for a term which may **extend to one year**, or with fine, or with both.

Cheating

➤ Cheating by Personation:

- **Sec 416** of IPC states that a person is said to “cheat by personation” **if he cheats by pretending to be some other person, or by knowingly substituting one person for or another**, or representing that he or any other person is a person other than he or such other person really is.
- Explanation.—The offence is committed whether the individual personated is a real or imaginary person.
- Eg: **A cheats by pretending to be B, a person who is deceased.** A cheats by personation.

Cheating

- ***Sushil Kumar Datta vs State*** [(1985) Cr LJ 1948 Cal]
 - In this case, the accused, **projecting himself as a Scheduled Caste candidate appeared at the Indian Administrative Service examination and obtained an appointment** in that cadre on the aforesaid false representation.
 - Held, **conviction for cheating is justified** since he did not belong to Scheduled Caste.

Cheating

- **Cheating and Dishonestly Inducing Delivery of Property :**
 - **Sec 420** of IPC states that *whoever **cheats and thereby dishonestly induces the person deceived to deliver any property** to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with **imprisonment** of either description for a term which may **extend to seven years**, and shall also be liable to fine.*
 - Sec 420 is an aggravated form of cheating.

Cheating

- **Cheating and Dishonestly Inducing Delivery of Property :**
 - **Simple cheating** is punishable u/s **417**. But **where there is delivery or destruction of any property** or alteration or destruction of any valuable security from the act of the person deceiving **section 420** comes into operation.
 - Here it must be proved that **the complainant was acting on a representation which was false and the accused had a dishonest intention.**

Cheating

➤ *Ishwarlal Girdharilal vs State* (AIR 1969 SC 40)

- In this case, the Court held that the word '**property**' in sec 420 **does not necessarily mean that it must have a money value** or market value.
- Even if the thing has no money value in the hand of the person cheated, but **becomes a thing of value in the hand of the person who get possession of it**, as a result of the cheating practised by him, it would fall within the connotation of the term 'property' under sec 420 of IPC.

Cheating

- ***Abhayananand Mishra v. State of Bihar*** (AIR 1961 SC 1698)
 - In this case, the appellant applied to Patna University for permission to appear M.A. examination in English as a private candidate, representing that he was a graduate having obtained his B.A. degree.
 - Later, just before the commencement of the examination it was discovered that the certificates were forged and that the accused had not obtained a B.A. degree.

Cheating

➤ *Abhayananand Mishra v. State of Bihar Cont....*

- Here the Court held that, **by making the false statement** about his being a graduate in the application submitted to the University, the **accused did deceive the University**.
- Here the accused was guilty of attempting to cheat under section 420 read with section 511, IPC.

Mischief

- **Sec 425** of IPC defines **Mischief** as:
- *Whoever with intent to cause, or knowing that he is likely to cause, **wrongful loss or damage** to the public or to any person, **causes the destruction of any property**, or any **such change in any property** or in the situation thereof as **destroys or diminishes its value or utility**, or affects it injuriously, commits “mischief”.*
- Eg: A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief

Mischief

➤ Ingredients of Mischief :

1. There is **intention or knowledge** to cause **wrongful loss or damage** to the public or to any person.
2. Causing the **destruction** of some property or any **change** in it.
3. Such **change must destroy or diminish its value** or utility or it injuriously.

Mischief

- ***Nagendra Nath Mondal vs State of West Bengal*** (AIR 1972 SC 665)
 - In this case, the accused person entered the school and set fire to the records and furniture of the school with the intention that the school must be closed.
 - Here the Court held the accused guilty of mischief.

Forgery

- **Sec 463** of IPC defines **Forgery** as:
- *Whoever makes any false document 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.*

Forgery

➤ Ingredients of Forgery :

1. There must be **making of false document or false electronic record**.
2. It must have been made with **intent**;
 - (a) to cause **damage or injury** to the public or any person; or
 - (b) to **support any claim** or title; or
 - (c) to cause any person **to part with his property**; or
 - (d) to **enter into any express or implied contract**; or
 - (e) to **commit any fraud** or that fraud may be committed

Forgery

- ***Daniel Hailey Walcot vs. State of Madras*** (AIR 1968 Mad 349)
 - In this case, the Court described the main elements of the offences of forgery:
 1. The document or the part of the document must be false in fact,
 2. It must have been made dishonestly or fraudulently; and
 3. It must have been made with intent to cause damage or injury to the public or any person.

Forgery

➤ **Sec 464** of IPC deals with **Making a False Document** as:

- *A person is said to make a false document or false electronic record- First -Who **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;*
- *(d) makes any mark denoting the execution of a document or the authenticity of the electronic signature,*

Forgery

- **Sec 464** of IPC deals with **Making a False Document** as:
 - *with the intention of causing it to be believed that such document or part of document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or*

Forgery

- **Sec 464** of IPC deals with **Making a False Document** as:
 - *Secondly.—Who **without lawful authority**, dishonestly or fraudulently, by cancellation or otherwise, **alters a document or an electronic record** in any material part thereof, **after it has been made**, executed or affixed with electronic signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or*

Forgery

- **Sec 464** of IPC deals with **Making a False Document** as:
 - *Thirdly.—Who **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 knowing that such person by reason of 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.*
 - **Eg:** A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase-money. A has committed forgery.

Forgery

- **Sec 465** of IPC provides **Punishment for forgery** as:
 - *Whoever commits forgery shall be punished with **imprisonment** of either description for a term which may extend to **two years**, or with fine, or with both.*
- **Sec 468** provides **Forgery for purpose of cheating** as:
 - *Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with **imprisonment** of either description for a term which may extend to **seven years**, and shall also be liable to fine.*

Forgery

- *State of Orissa vs. Rabindra Nath Sahu* [(2002) CrLJ 2327 (Ori)]
- In this case, the Court stated that section 468 does not require that the accused should commit the offence of cheating, **what is material for the section is committing forgery with the intent to use the forged document for the purpose of cheating.**
- However, if the accused has used the forged document for the purpose of cheating, he becomes liable under Section 468 as well as for committing the offence of cheating.