

E-Notes (Compiled)
on
Law of Crimes-II
Unit III (No. 2)
(LL.B. 3yrs – IIInd Semester)
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Extortion

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Extortion

Relevant Section - 383, Indian Penal Code, 1860

Statutory Definition

- 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'.

- **Section 383** of the Indian Penal Code, 1860 (hereinafter referred as IPC/Code) defines the offence of extortion. **Besides** the statutory **definition, 4 illustrations** are also given **for conceptual clarity** about the offence of extortion.

Note - Read/see/add **these illustrations for better understanding** from Bare Act.

Ingredients

To constitute the offence of extortion, the following **ingredients** must be satisfied:

- (1) **intentionally putting** a person in **fear of injury** to himself or to another; and
- (2) **dishonestly inducing** the person so put in fear to deliver to any person, any property or valuable security.

Elaborate Analysis

These two important ingredients of extortion (which may be considered **as equivalent** to '**blackmail**' under **English law**) are-

- (1) **Intentionally putting any person in fear of injury to himself or to another**

There are two main components of this ingredient *i.e.*,

- (a) Intentionally putting in fear of injury; and
- (b) To whom - to himself/victim; or
- to another/to any other

(a) Intentionally putting in fear of injury

For an offence under this section, the offender must intentionally **put the person in fear of injury**. To put in fear of injury, **a person must be threatened** with injury.

- The fear of injury **need not necessarily be personal violence**. It may be of any harm illegally caused to body, mind, reputation or property.

- The term "**injury**" is defined in **section 44** of the IPC, which says that the word "injury" denotes any harm whatever illegality caused to any person, in body, mind, reputation or property.

- The **nature of fear** or 'fear of injury' **must be of a real nature**, so as to **unsettle the mind** of the person upon whom it is used, and to take away from his act that element of **free voluntary action** which alone constitute consent.

The injury that a person may be put in fear of **is not necessarily physical injury**. Injury to character may also be an injury.

- **Fear** must **precede the delivery of property**. The wrongful retention of property obtained **without fear of threat will not amount to extortion**, even though subsequent threats are used to retain it.

- The **threat may be true or false**. Before a person can be said to put any person in fear of any injury to that person, it must appear that he held out some threat to do or omit to do what he is legally bound to do in future.

For example

In *R. S. Nayak v. A. R. Antulay & Others*, (1986), the Supreme Court has held that for an offence of extortion, **fear or threat of fear must be used**. A person can be said to be put any person under fear of injury, it must appear that **he has held out some threat to do or omit to do what he is legally bound to do in future**. If all that a person does is to promise to do a thing which he is not legally bound to do and says that if the money is not paid to him he would not do that thing, such act would not amount to an offence of extortion.

Likewise, the terror of a true or false criminal charge amounts to putting the victim in fear of injury (*Queen v. Mobaruk*, (1867) 7 WR Cr. 28). Even a **threat of charge of misconduct not amounting to an offence** may be extortion. (*R. v. Tomlinson*, (1895) 1QB706).

- **But**, where the **accused persons put a lot of pressure on two members of the governing council** of an educational institution **to revoke the earlier order of suspension** of the principal, it may have an undue pressure but it **could not amount to extortion** (*Ram Kamal Bezboruah v. Chandra Nath Kalita*, 1971 Cr. L J 708 (Ass.)).

- Abduction **for ransom money** makes the offender guilty for the offence of abduction and extortion. But, **threat of divine displeasure** was **not held** to be extortion (*Tanumal v. Emp.*, I L R 1944 Karachi 146).

- **Apart from these**, where the **accused threatened to expose** a bishop for his **illegal relation** with a woman in house of ill fame, it was **held to be a threat** falling under this section because it was of such a nature as man of ordinary firmness could not be expected to resist.

- The **guilt** or **innocence** of the party threatened is **immaterial**. A **threat** to charge **may not be** before a **judicial authority/tribunal**, it would **be enough** if the threat is **to charge** before a **third person**.

For example, in a case where P, the prosecutor while returning home met a woman on the way to whom he spoke, whereupon he was arrested by a policeman on duty who **threatened to** prosecute him for **having spoken to a prostitute** on the street **for which P** made himself **liable to pay a fine of 1 Pound**. However, the **constable proposed to drop** the matter **if he was paid a hush money of 5 Sh.**, which **P paid** him. The **constable** was **held liable** for this offence.

Likewise, in a case where the **accused took a photograph of a naked boy and girl** by compelling them to put off their clothes and **extorted** money by threatening them to publish the photograph, he was held **guilty of extortion** (*Ramesh Chandra Arora's Case*).

Similarly, where a police officer 'A' arrested 'B' and refused to accept bail until Rs. 500 was paid and released him only after the amount demanded was paid. 'A' was held guilty u/s 383.

(b) To whom

The **other aspect** of this ingredient is that the fear of injury **need not necessarily be to the victim** at present on spot but to any other person. Under this requirement, it is **not necessary** that the person so put in fear must be threatened to injury **to himself** only. The fear of injury may be that person or to

any other person or to another. In **other words**, it may be intended to the person put in fear or **to any person other than him too**, and it is **not necessary** that **they** should be **related** to **each other**.

- **For example**, a notorious robber writes to Z, if you do not send me Rs. 1000, I shall see that your only son will be killed by my gang Z so threatened, sends him the amount. This is **extortion**, though the threatened **injury is directed, not to Z, but to his son**.

(2) Dishonest inducement to deliver any property to any person

The **essence** of this offence is **dishonest inducement** and **obtaining delivery of property** in consequence of **such inducement**.

- So, the **intention** of the offender must be **dishonest** and the offender must **thereby dishonestly induce** the person so put in fear **to deliver** any person **any property**, or **valuable security**, or anything **signed or sealed** which may be **converted** into a **valuable security**.

- The offence **can be completed** only **when the delivery takes place**. Proof of dishonest intention *i.e.*, intention to cause **wrongful gain** or **wrongful loss** vide **section 24** of the Code, is must. Therefore, **an intention to cause wrongful gain** or **wrongful loss** is **essential**. Merely **causing of wrongful loss to someone** and **wrongful gain to other** would **not be sufficient**.

Note – The **statutory meaning** with **appropriate examples** of the term **dishonestly i.e., wrongful gain** and **wrongful loss** has been discussed in detail in **E- notes on Law of Crimes-ii**, uploaded on **portal** under **caption ‘Theft’**.

Property

Extortion can be committed with respect to any property *i.e.*,

- movable; or
- immovable; or
- valuable security; or
- anything signed or sealed which could be converted into a valuable security.

The expression '**valuable security**' has the same meaning as given under **section 30** of the Code. As per this section, the words '**valuable security**' denotes **a document which is, or purports to be a document** whereby **any legal right is:**

- created;
- extended;
- transferred;
- restricted;
- extinguished; or
- released; or
- whereby any person acknowledges that he lies under legal liability; or
- has not a certain legal right.

The use of the words '**anything signed or sealed**' which **may be converted into a valuable security** shows that incomplete deeds may also be subject of extortion. But, mere forcible taking of a thumb impression on a piece of paper which can be converted into a valuable security does not amount to extortion but to an offence under section 352 of IPC. (*Jadunandan Singh v. Emp.*, AIR 1941 Pat. 121).

But incomplete deed may be subject of extortion. For example, A signs on a promissory note in which date and amount *etc.*, are not filled up and delivers it to B, the offence of extortion is committed because promissory note can be completed and used as valuable security.

To Deliver

Delivery of property by the person put in fear **is the essence of the offence** under this section. **In other words**, to constitute the offence of extortion, there **must be fear and delivery of property.**

- Under this section, **actual delivery of property** by the person put in fear **is essential** (*Labh Shanker's case*).The **delivery** of property **must take place.** **Without this**, the offence may **amount only to an attempt.**

- **Likewise**, where a person put in fear **shows no resistance to** the carrying off his **property**, but **does not deliver** the property to those who carry it away, the offence committed **is not extortion but robbery** (*Queen v. Dulleloodeen Sheik*).

To any person

It is **not necessary** that the **threat must be given by the same person** and the **property must be received by the same person**. The threat may be used by one person and the property may be received by any other person at the instance of former/on behalf of the accused.

- **Likewise**, such delivery of property may be taken/received:
- directly by the offender; or
- to any other person on his direction/on his behalf; or
- it may be by placing the property in some place of deposit; or
- by otherwise putting it at the immediate disposal of the offender.

All **those persons** who **use threat** and **to whom property is delivered** would **be liable for** the offence of **extortion** (*Shanker Bhagwat's case*).

Distinction/Difference between Theft & Extortion

The offences of theft and extortion **have many common features** and both are offences against property. The **object** of both the offences **is wrongful gain of property**. However, there are **certain points of distinction** between the two. They **can be distinguished** on following **aspects**.

(1) Subject-matter

In theft, **the property** which is subject of theft **must be movable**; while **in extortion**, the property **may be movable or immovable**. It may **even be a valuable security** or anything **signed or sealed** which may be **converted into a valuable security**.

(2) Object

The **object** of the offence of **theft** may be **wrongful gain or wrongful loss**;

while in extortion, the **object** of offence of extortion **must be wrongful gain to someone and wrongful loss to another.**

(3) Consent

In theft, the **property is taken without the consent** of the possessor; whereas in extortion, the **consent** of the victim **is obtained by putting** him or any other person **in fear of injury.**

(4) Force

In **theft**, the element of **force** on the part of offender **is absent.** In other words, in theft **no force or threat is used or fear is caused** in taking the property;

while in extortion, the property is obtained **by putting the victim or any other person** in fear of injury and thereby inducing him to deliver the property.

(5) Possession over Property

In theft, **the offender himself moves the property** in to such taking; **whereas in extortion**, the **victim is induced to deliver the same** to the offender or to any person.