

E-Notes (Compiled)
on
Law of Crimes-II
Unit III (No. 3)
(LL.B. Three Years - IInd Semester)
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Robbery

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Robbery

Relevant Section – 390, Indian Penal Code, 1860.

Statutory Definition

Section 390

Robbery - 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.

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, or 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.

Explanation- The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, or of instant hurt, or of instant wrongful restraint.

Besides the definition and explanation, **4 illustrations** (*i.e.*, illustration (a), (b), (c), & (d) are also given **for conceptual clarity**.

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

Elaborate Analysis

As the **terminology** used in **section 390** suggests that it is **not a new offence in itself**, because in robbery, there **is either theft or extortion**. It denotes that robbery consists of either theft or extortion.

- It is an **aggravated form of offence of theft or extortion**. **Aggravation is in the use of violence** of death, hurt or restraint in course of both.

- The **essence of this offence is the presence of imminent fear or violence**, and **a large proportion of robberies are a mixed case of aggravated form of theft and extortion**.

- Para 2 of this section deals when theft is robbery and Para 3 deals when extortion is robbery.

(A) When theft is robbery (Para 2)

Theft is robbery in the following circumstances:

- (i) When someone voluntarily causes or attempts to cause to any person:
 - (a) death or hurt or wrongful restraint; or
 - (b) fear of instant death or instant hurt or of instant wrongful restraint.
- (ii) The above acts must be done for any of the following ends:
 - (a) in order to the committing of theft; or
 - (b) in committing theft; or
 - (c) in carrying away; or
 - (d) in attempting to carry away property obtained by theft.

(i) When someone voluntarily causes or attempts to cause to any person-

When someone 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 restraint, **his act will amount to robbery.**

- The word '**voluntarily**' has the same meaning as used under **section 39** of the Indian Penal Code, 1860 (hereinafter referred as IPC/Code). According to this section, a person is said to cause an effect 'voluntarily' when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

The **illustration attached to this section** makes it very clear to understand the term voluntarily, *i.e.*, A sets fire, by night to an inhabited house in a large town, for the purpose of facilitating a robbery and thus causes the death of a person. Here, A may not have intended to cause death; and may even be sorry that death has been caused by this act; yet if he knew that he was likely to cause death, he has caused death voluntarily.

Voluntarily Causes

The use of words 'voluntarily causes/attempts to cause' in **Para 2** is significant because **merely causing of accidental injury does not convert the offence of theft into robbery.** The injury **must be** voluntarily caused **for that ends.**

For example, where the accused while cutting a string, by which a basket was tied, with intent to steal it, **accidentally cut the wrist of the owner**, who at the moment tried to seize and keep the basket and ran away with it. He was **held liable for theft and not for robbery** (*Edward's case*).

But, where the accused while **snatching a nose-ring** of women **wounded her** in the nostril and caused her blood to flow. He **was held guilty of robbery** (*Tikai Bheer's case*).

Likewise, the word '**death**' used in **Para 2** denotes the death of a human being unless the contrary appears from the context as defined in **section 46** of the **Code**. **Hurt** is defined under **section 319** of the Code **to mean that whoever causes bodily pain, disease or infirmity to any person is said to cause hurt**, and **wrongful restraint** as defined under **section 339** says that whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Thus, if **any or all** in **mixed** form of **acts of violence** are committed **in theft** for specified purposes (**for that end**), the act will amount to robbery.

(ii) The above acts must be done for any of the following ends (for that end) -
The **essence** of this requirement under Para 2 is that the offender for the **purpose of committing theft (in order to the committing or in committing of the theft)** or carrying away/attempting to carry away property obtained by theft, voluntarily, causes/shows instant fear of death, hurt or wrongful restraint **for that end**.

For that end

Therefore, the offence of **theft converts into robbery** if violence of **such nature** as **death** or **hurt** or **wrongful restraint/ fear of instant death/hurt/wrongful restraint** is used for **one of the four ends** (in statutory terms they are **called for that end**), viz.,

- (a) in order to commit the theft; or
- (b) in committing the theft; or
- (c) in carrying away stolen property; or
- (d) in attempting to carry away stolen property.

Thus, it means that death, hurt or wrongful restraint or fears of occurrence of such violence instantly, must be caused:

- either before; or
- during; or
- after committing theft.

But, it **must be** caused **for any of these ends only** and no for other purposes.

- If fear of violence/force is used for any other purposes, it will not convert that theft into robbery.

For example, where a person **causes hurt simply to avoid his capture** when he is seen by the owner while stealing, it would be case of theft and not of robbery (*Kaiio Kaio's* case).

Likewise, where the accused **abandoned the property** obtained by theft **and threw stones** at his pursuers **to deter them from continuing the pursuits**, he would **be guilty of theft** and **not of robbery**. So, **mere use of violence does not convert the offence of theft into robbery**, unless the violence is committed **for one of the ends** specified in **Para 2** of this section.

Likewise, where A stole a hand-bag from a house, and while carrying it away, was seen by B. A threw away the bag and wounded B with a knife. It was held that **A was guilty of theft and causing hurt to B**. He would not have been guilty of robbery if he had not thrown away the bag, but had wounded B to enable him to carry away the stolen property.

But, where A & B were stealing mangoes from a tree, and were seen by C, whereupon A knocked down C and C became unconscious. The offence of **robbery has been held to be committed.**

Carrying away/to carry away

For an offence of robbery through theft, death, hurt or wrongful restraint may be caused either in committing theft or in order to the committing of theft; or

Even, such violence is caused after committing the theft in order to carrying away or attempting to carry away the property obtained by theft, this offence would be committed.

For example, A snatched the watch of B. C stopped the victim in order to enable A to carry away the watch. As the hurt was caused by C, had relation to the theft of watch, the offence was held to be covered by this section (*Harish Chandra v. State of U.P.*, AIR 1976 SC 1430).

Likewise, where one accused stopped the complainant to enable the other accused to take away the complainant's watch, it was held that offence fell under this section.

Similarly, in a case 'A' was relieved of his wrist watch by 'B' in a railway compartment when the train was about to stop at a station. As 'A' raised an alarm 'C' gave him a slap and both 'B' and 'C' jumped out of the coach and ran away. Soon after both of them were found taking tea at a stall near to railway station. Both 'B' and 'C' will be guilty under section 392 (punishment for robbery) read with section 34 IPC, because 'C' in furtherance of common intention to commit robbery and with intention to save 'B' from being caught caused hurt to 'A' and has thus helped in carrying away the stolen property.

Thus, where two views are possible that hurt was caused to help removal of the property which was stolen or to enable the offender to make good his escape, after he had committed the theft, the view favorable to the accused, that is to say, that

the hurt was caused to enable the offender to make good his escape must be accepted (*Titir Dusadh v. State*, AIR 1966 Pat. 453).

(B) When extortion is robbery (Para 3)

Extortion is robbery, if the following pre-requisites are fulfilled:

- (i) When the offender puts in fear of instant death, or instant hurt, or of instant wrongful restraint to that person or to some other person; and
- (ii) the offender by so putting in fear, induces the person to deliver the property then and there; and
- (iii) the offender must be in the presence of the person put in fear.

Note 1- Illustrations (b) & (c) attached to this section **are the good example** of those cases where **extortion converts into robbery**.

Note 2 - All the **basic essentials** of the offence **of extortion** has been discussed in detail **under topic extortion** (uploaded on **University Portal** under caption **E-notes on Law of Crimes No.2**).

In **addition to these basic essentials**, to convert extortion into robbery, the offender **must be in presence of the person put in fear to that person or some other** person in fear of instant death, or instant hurt or instant wrongful restraint.

Apart from these, the offender must induce the person so put in fear **then and there to deliver** the demanded **property**.

In the Presence of the Person

This **requirement needs some additional interpretation** for better in understanding. For extortion to become robbery, it is necessary that the **offender must be present before the person put in fear of injury** (But under section 383, this requirement is not necessary).

Explanation to this section (**section 390**) **clarifies** that a person is said to be present if he **is sufficiently near** to put the person in fear of instant death, or instant hurt,

or of instant wrongful restraint. The **term instant** may **be interpreted** to **cover the situations** like immediate, at once and on spot also.

Apart from these, the offender must induce the person so put in fear then and there to deliver the demanded property.

In other words, it means that the **offender** must be **present at the place** or is **capable enough to execute his threat** into effect **instantaneously**, immediately, at once or on spot and victim is **within the arms range** of the offender.

If the victim **delivers the demanded property** in order **to avoid imminent danger** of injury to himself or to some other person, the requirement under this is satisfied to constitute the offence.

To that person or some other person

The threat of fear of injury may be against to that person (from whom the property is demanded) or against some other person.

When injury threatened **relates to some other person**, such other person would naturally **be one in whom the person threatened is related/interested** and therefore, **in order to avoid injury to that person or to save that some person** from **apprehended threat of injury**.

For example, ‘A’ takes out a knife and points at ‘B’ and says to ‘C’ that he will kill his son ‘B’ if she refuses to give her golden chain. If ‘C’ delivers that chain to ‘A’, ‘A’ would be guilty of the offence of robbery (**through extortion**) because he extorts money **by putting ‘B’ in immediate danger to life**. (See also illustration (b).

Similarly, where a police officer obtains from ‘B’ certain ornaments by putting him under the fear that he will immediately be put into prison and will not be released for months, the police officer would be guilty of robbery u/s 390.

Mixed cases of robbery or partially robbery through theft and partially robbery through extortion

Even **though a robbery** would always **be either theft or extortion** as shown by the definition (u/s 390), **in practice**, it may sometimes **be quite difficult** to **identify as to which part is robbery by theft** and **which one robbery by extortion**.

For example, 'A' seizes 'Z' and threatens to murder him, unless he delivers all his property, and begins to pull off 'Z's' ornaments. 'Z' in terror begs that 'A' may take all he has, but spare his life, assists in taking of his ornaments and delivers them to 'A'.

Hence, such ornaments **as 'A' took without 'Z's' consent** are **taken by theft**. Those **which 'Z' delivered up** from fear of death **are acquired by extortion**.

So, it is **probable** that 'C's' **right arm bracelet** may have been taken **by theft** and his **left bracelet** by **extortion**. But **as a cumulative effect of nature of acts**, 'A' would **be guilty of robbery**.

Likewise, where 'A' enters into the house of 'B' and pointing a revolver at him, asks him to surrender the entire valuables. While '**B' starts surrendering** the valuables, '**A' himself starts picking up** some of the other valuables.

Thus, 'A' would **be guilty of robbery by theft** of those valuables **which he himself picks up**, and of **robbery by extortion** of those valuables **which 'B' handed over to him**.

In the end, 'A' may not remember as to which of the valuables were handed over to him by 'B' and which of them he himself picked up. But, there is no doubt that part of robbery was theft and remaining part by extortion.
