

LAW OF CRIMES AND CRIMINAL JURISPRUDENCE

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ABSTRACT:

Under what circumstances ought to it's a criminal offense for X to threaten to try and do some unwanted act to V unless V pays X cash to forgo it? once the vulnerable act is itself unlawful (e.g., "pay ME \$10,000 or i am going to break your knees"), lawmaking is uncontroversial. however once the act vulnerable is putatively lawful (e.g., "pay ME \$10,000 or i am going to . . . expose embarrassing info regarding you, file a causa against you, order my union to strike your mill, not rent you for this job," etc.), the matter is additional difficult. There ar several circumstances during which X's threat to try and do some unwanted however even so lawful act to V unless V pays up are going to be viewed as nothing over "hard talks.

After a quick review of the literature on the blackmail contradiction, the article contends that no conceptually adequate take a look at has been developed for identifying between those threats to try and do what's putatively lawful that ought to be treated as a criminal offense and people that ought to not. It then pursues a in theory less significant, however doctrinally important, project. although it's insufferable to mention that threats to try and do what's putatively lawful ought to be treated as a criminal offense usually, it ought to still be doable to mention that, if any, such threats ought to be treated specifically as extortion. to it finish, the article offers a ballroom dance analysis. the primary is to create by mental act extortion as thievery by coercion: once X "wrongfully" threatens to commit some act unless V pays X's demand, X "steals" from V by charging him cash for one thing that he has no right to charge him. The second step is to mention that a threat to interact in putatively lawful conduct ought to be considered "wrongful" for functions of extortion law if and given that such conduct seems - on more analysis of the relevant governing law, comparable to the law regarding what constitutes Associate in Nursing extralegal causa, strike, or employment call - of course to be unlawful.

Keywords: Extortion, blackmail, hard bargaining, Enron, white collar crime, coercion, theft.

INTRODUCTION:

Theft and Extortion, These two might seem similar in common usage but, they are two distinct crimes under the Criminal Law.¹(Frederick 2013) The section dealing with Theft and Extortion can be broadly categorised into following divisions are:

1. Theft attempt to commit Theft, punishment for Theft as (sec 378, 379, 380, 381 and 382.)
2. Aggravated forms of Theft (sec 380,382)
3. Extortion (sec 383,384)
4. Aggravated form of Extortion (sec 396)
5. Offences connected with Extortion
 - (a) Putting person in fear of death (sec 387)
 - (b) Extortion by threat of accusation (sec 388)
 - (c) Putting person in fear of accusation of offence in order to commit extortion (sec 389)

Theft is a special and aggravated form of either theft or extortion and means felonious taking from the person of another or in his presence against his will, by violence or putting him in fear, and it becomes Extortion when it is committed by five [1]or more person jointly.

Criminal law affecting the property of a person defined under section 378 to 402 of the Indian penal code 1860 as Theft, Extortion, Theft and Extortion . On a Prima facie basis they seem to be very much similar to each other, but on the closer look it may be found to be slight difference which distinguish one from another.² The present article focus upon the distinguish between these offences seems to be similar. It plays a pivotal difference

Aim of the study:

1. To study about theft and Extortion in India.
2. To find out wrongful restraint of other person
3. To suggest the heinous punishment for theft and Extortion .

Materials and methods :

This study is collected from secondary sources like books and publication from various websites in study of theft and Extortion .

¹ [\(Frederick 2013\)](#)

² [\(Allen and Edwards 2017\)](#)

HISTORY OF THEFT AND EXTORTION

During ancient era theft and Extortion are major crimes among the country's. This crimes mainly occur on both land and water various people usually travel to works in different localities.³ The riverine area like West Bengal people use waterways travels accumulate Extortion and theft takes place easily and killed larger number of peoples. [2]Riverine misdeeds in olden days are pirates would use swift boats in group of 20 to 30 paddles for Extortion those lightweight craft can bear many people swiftly. The effort of government they eradicated the pirates and appointed the bands of organisers. At the present no trace of them can be found. Ancient period pirates commit Extortion using the passengers boat travelling along with them like passengers. Some region a class of cruel and wicked pirates named 'Bijanaa' commit Extortion on the Padma in this typical fashion even today.[3]For these reasons boatmen of traders, jewelers and passengers craft ought never stop their boats out of compassion for lending fire or tobacco. Rather the moment they hear such a request , 'a little fire please, a little tobacco. Rather, the moment they hear the same shall remove their craft far away.'⁴

Among them pirates the Sandaar and Goaynaa bands were notorious. Many kings Nawabs and zamindars used to take the help of these pirates quite often in war. Landlords and princely houses on riverine sides vacate their houses to save their livelihood only by means of Extortion.

Pirates, the land dacoits are extremely powerful in this past region. Landlords were forced to pay annual taxes and pirates received honour like leaders from the kings. Commencement of British rule in India there power was extreme, even ancestor lands of some popular Zamindars are looted by Extortion and given share to British. Dacoits committed Extortion, they would rob the poor less people too and they have target conspiracy always to hunt the big landlords houses for their establishment. Their slogan was 'hunt but the rhino, loot but the treasury.'

Later the British rule during their course of time, dacoits were wiped out. Before committing Extortion they will worship god Kali and sacrifice some human for victories.⁵ The ritual of battle was armored elephants would crash through all obstacles and dangers with their huge bodies chariots and cavalry, but battle technique was effective on the hard ground and hilly terrain of north and south India. Royal families their scattered soldiers who built up

³ ([Goody](#))

⁴ ([Clutterbuck 1987](#))

⁵ ([Allen and Edwards 2017](#))

needless dacoits bands in the past. The word Ron – paa and its monopoly use by dacoits gangs is proof.

On the enquiries many Dacoits came into beginning of British rule were sepoy and lathials dismissed during Zamindars period, Zamindars were full autonomous with respect of internal government. Law and orders of government is fully vested in hands of Zamindars.[4] Establishment of police judiciary Zamindars powers had lost dismissed lathials began to serve with dacoits leaders those time for their livelihood. Unworthy warriors from criminal tribes becomes dacoits several dacoit gathered and declared. Gaurey Bedey and Raghu Dakar were prominent Both lived in Halisahar Parganas of 24 Parganas. Madras village near naihati the ruin of Raghu Dakar Kali temple still exist. Wasteland of local people even today believe that treasures buried by dacoits can be found. Distant village were to be visited villagers would usually leave home only making their wills permanent arrangements for their lands and property, every moment of travel with fear of losing their lives at the hands of thengariyaa or dacoits. Even today the Extortion are become like tales of such thengariyaa dacoits 'Kali' can be hears in villages.⁶

These dacoits came to eat at any Zamindars place, they never took salt. That is they used to take less salt for food, they knew that good relations will not continue forever with Zamindars. Hunting for hidden treasure, men tied in posts and scorched them with beatings whereas women let alone touch their body and never tried to stole single ornaments off their bodies. Today dacoits stealing jewels and killing the people sometimes rape may occur during Extortion. Modern dacoits at time perpetrate unspeakable indiscriminately on women and men.

Even today they use paddy- husking pedal for Extortion. This husking pedal is implement of husking paddy. It can be seen in all houses like poor and rich villages. Extortion theft all these paddy in poor people house and suspend it little above ground on three bamboo posts. The instrument they use is called Dhenkikol.

In olden European soldiers also used this instrument while committing Extortion. Bringing paddy hunker on rich man poles to rich man door rope of suspended pedal had high velocity to knock the door any door or brick wall could be collapsed.[5] During committing their Extortion gangs will scream with some help and easily enter into the houses. They carry out Extortion using torches and staves, torturing small children tying their legs around the waists, Then snatching the ornaments from women body. At the time of their operations their

⁶ [\(Clutterbuck 1987\)](#)

signal of position by imitating like jackals. Dacoit gangs of the past is Thugis and Pindaris were prominent. They theft passengers money and belongings, knotting a coin at end of the strip cloth fling around the victim throat and it become noose. looting their belongings is another way for killing passengers. For suppressing them a special section was added to the Indian penal code.⁷

In recent times railway theft features are major type of Extortion. Gang of member rides in train and plan to pull emergency chain in lonely deserted area place to stop train. Later they will runaway with looting ornaments from passengers. Present scenario dacoits are found to unnecessarily killing people for little money. Extreme materialism they follow such kind of mentality, lack of faith in religion that is responsible.

Their view sin and virtue are distortions of the mind. Besides some become so nervous to lose all the sense of discrimination at that time.[7] At this time they sort of patient to own lack of practice, mainly lack of self control is reason behind this. professional dacoits have taken crime as main business. They knew needless cruelty is harmful business. Extortion good and evil have their own views, there is too much of weeping and wailing even some have looted from their working place like household works. The dacoits won't lose their patience during committing Extortion. Besides some people commit Extortion for enjoying their thrills.

During Muslim rule Extortion gangs have been established parallel government in many places. Local Zamindars had helped them. [8] Muslim have established supremacy in towns and the capital of Hindustan had no powers in remote areas of the country. Zamindars and dacoits leaders ruled unchallenged, because at the rise of Marathas, jats and rajputs etc.. the Mughal empire easily collapsed. The passengers travelling in two-wheelers across highways robs by local dacoits.[6]

COMPARATIVE STUDY ON THEFT AND EXTORTION

Theft comes below the compass of offences against property that extends from section 378 to section 462. larceny has been dealt below section 378 to 382. larceny is Associate in Nursing offence during which movable property of an individual is alienated while not his consent. larceny has been outlined in Section 378 of IPC. at the same time the social control for the commitment of act of larceny has additionally been outlined in Section 379 of IPC. Section 378 within the Indian legal code – larceny

⁷ [\(Clutterbuck 1987; Clutterbuck 1987\)](#)

Whoever aiming to take venally any movable property out of the possession of a person while not that person's consent, moves that property so as to such taking is alleged to commit larceny.

Essential Ingredients –

There should be a dishonest intention of an individual to require the property.

The property should be movable.

Such movable property should be alienated.

The property should be alienated from the possession of an individual. In different words there should be a possession of that property.

Such property should be alienated while not the consent of such person.

Dishonest Intention:-

It is additionally referred to as as malafide intention which might be depicted within the sort of preparation. This preparation is that the base of the larceny. The petitioner should prove that a issue was alienated with a dishonest intention.

However, intention may be a mental component that is tough to prove however specific evidences area unit thought-about for this purpose. the most measure of dishonest intention is to form a wrongful loss to a different person then such act is taken into account to be finished dishonest intention.

Movable Property:-

The subject of larceny is movable property. stabile property can not be taken. A movable property may be a property that is in a position to maneuver simply or that isn't stabile. It means that the issue for good connected to the world is stabile property, isn't the topic of larceny. It becomes capable of being the topic of larceny once it's cut off from the world.

Be alienated out of Possession of another Person:-

The property should be within the possession of another person from wherever it's removed. there's no larceny of untamed animals, birds or fish whereas at an oversized however there's a larceny of tamed animals.

Illustration – 'A' finds a hoop lying on the road that was within the possession of a person. A by taking it commits no larceny, tho' he might commit criminal misappropriation of property.

It ought to Be Taken while not Consent of That Person:-

The consent could also be categorical or implicit and will tend either of the person in possession, or by a person having for that purpose categorical or implicit authority.

Illustration – 'A' being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book while not Z's categorical consent for the aim of just reading it (with the intention of returning it) Here it's probable that A might have formed that he had Z's implicit consent to use Z's book. If this was A's impression, A has not committed larceny.

In *Pyarelal Bhargava v. State* AIR 1963, a govt. worker took a file from the government office, bestowed it to B, and brought it back to the workplace once 2 days. it had been command that permanent taking of the property isn't needed, even a short lived movement of the property with dishonest intention is enough and therefore this was larceny.

Section 379 within the Indian legal code – social control for larceny.

Whoever commits larceny shall be punished with imprisonment of either description for a term which can touch 3 years, or with fine, or with each.

Section 380 within the Indian legal code – larceny in domicile, etc.

Whoever commits larceny in any building, tent or vessel, that building, tent or vessel is employed as somebody's dwelling house, or used for the custody of property, shall be corrected with imprisonment of either description for a term which can touch seven years, and shall even be prone to fine.

The word domicile means that a building tent or vessel during which an individual lives or remains whether or not for good or briefly. A railway room may be a building used for human dwelling house. larceny of articles from the roof of a house fall into the section. [*Satho Tanti vs. State of Bihar*, (1974) metal LJ seventy six (Pat)] Object of this section is to

allow bigger security solely to property deposited during a house and to not the in stabile property of the person or the party from whom it's taken.

Section 381 within the Indian legal code – larceny by clerk or servant of property in possession of master.

Whoever, being a clerk or servant, or being used within the capability of a clerk or servant, commits larceny in respect of any property within the possession of his master or leader, shall be corrected with imprisonment of either description for a term which can touch seven years, and shall even be prone to fine.

In view of the arrogance reposed by the worker in his clerk or servant, any offence committed by the worker is taking serious note of. Thus, the larceny by a clerk of his master's or employer's property is corrected severely.

Theft once preparation created for inflicting death, hurt or restraint so as to the committing of the larceny.

Whoever commits larceny, having created preparation for inflicting death, or hurt, or restraint, or worry of death, or of hurt, or of re-strain, to a person, so as to the committing of such larceny, or so as to the effecting of his escape once the committing of such larceny, or so as to the retentive of property taken by such larceny, shall be corrected with rigorous imprisonment for a term which can touch 10 years, and shall even be prone to fine.

The section deals with a case wherever the outlaw had created preparation for inflicting death or hurt or restraint to a person so as to confirm the commission of larceny or effecting escape once the committing of such larceny or to restrain the properties these days.

EXTORTION

Section 383 defence extortion and section 384 provides penalty for extortion. The offence of extraction consists in – by choice golf stroke an individual in worry of injury to himself or another deceitfully inducement the person, thus place in worry to deliver to somebody, property or valuable security.

Section 383 within the Indian legal code – Extortion

Whoever by choice places somebody in worry of any injury to it person or to the other and thereby deceitfully induces the person thus put in worry to deliver to somebody any

property or valuable security, or something signed or sealed which can be reborn into valuable security commits, "Extortion". necessities of Extortion Intentionally golf stroke an individual in worry of injury; Such injury could also be for the one who is put out the worry or for the other persons during which the previous person has interest. Such force ought to be shown with a read to require a issue for property or valuable security or sign or seal or a document. There should be a dishonest intention.

Thus if the on top of components ar gift then it's Associate in Nursing offence of extortion, dishonest intention is additionally an important component of extortion. Dishonest intention is measured from the circumstances and facts of every case. something taken from an individual at the purpose of the firearm is Associate in Nursing e.g. of extortion.

Illustration – 'A' threatens 'Z' that he can keep Z's kid in wrongful confinement unless Z can sign and deliver to A – a debt instrument binding Z to pay cash to 'A'. Z signs and delivers the note. 'A' has committed the offence of extortion.

In Queen vs. Nathalirc Mirad, [(1844) seven WR chromium 28] a threat to reveal Bishop of his embezzled relation with a girl was control to be extortion. In Romesh Chandra Arora vs. The State (AIR 1960 SC 154), the defendant took a photograph of a unadorned boy and a woman by compelling them to require off their garments and extorted cash from them by threatening to publish the photograph. He was control guilty of extortion.

Section 384 within the Indian legal code – penalty for extortion.

Whoever commits extortion shall be reprimanded with imprisonment of either description for a term which can be 3 years, or with fine, or with each.

Section 385 within the Indian legal code -Putting person in worry of injury so as to commit extor-tion.

Whoever, so as to the committing of extortion, puts somebody in worry, or makes an attempt to place somebody in worry, of any injury, shall be reprimanded with imprisonment of either description for a term which can be 2 years, or with fine, or with each.

Section 386 within the Indian legal code – Extortion by golf stroke an individual in worry of death or grievous hurt.

Whoever commits extortion by golf stroke somebody in worry of death or of grievous hurt o that person or to the other, shall be reprimanded with imprisonment of either description for a term which can be 10 years, and shall even be prone to fine.

Section 387 within the Indian legal code – golf stroke person in worry of death or of grievous hurt, so as to commit extortion.

Whoever, so as to the committing of extortion, puts or makes an attempt to place somebody in worry of death or of grievous hurt to it person or to the other, shall be reprimanded with imprisonment of either description for a term which can be seven years, and shall even be prone to fine.

Section 388 within the Indian legal code – Extortion by threat of accusation of Associate in Nursing offence punishable with death or imprisonment always, etc.

Whoever commits extor-tion by golf stroke somebody in worry of Associate in Nursing accusation against that person or the other, of getting committed or tried to commit any offence punishable with death, or with 1[imprisonment for life], or with imprisonment for a term which can be 10 years or of getting tried to induce the other person to commit such offence, shall be reprimanded with imprisonment of either description for a term which can be 10 years, and shall even be prone to fine; and, if the offence be one punishable beneath section 377 of this Code, could also be reprimanded with imprison-ment always.

CONCLUSION:

The theft is part of Extortion. Both are interlinked to each other. Theft will bring the instant fear and some threat will be their whereas Extortion plan murder and stealing ornaments. It's is heinous crime Extortion, sometimes rape too may occur. Five or more person together will plan for Extortion, theft an individual is enough. The punishment system in India is not perfect. It has to be changed as early as possible. Early days crimes were less and punishment is high. Theft and Extortion can reduce only scrutiny of youngsters because punishment is less under Indian penal code. Hence my hypothesis is proved.

Suggestion

- The petty offence must be punished by ordering them to do the public service or community service in a selected institutions instead of imposing fine or sending them to jail to under go short term sentences.
- The permanent Statutory Committees should be established at both national and State levels to monitor the sentencing process.
- The child or elderly person whoever commit the theft or Extortion shall be punished according to their crime and not age.

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