

Offences against Property/asr

- Basic element – Dishonestly s. 24
 - Intention of causing
 - Wrongful gain to one person
 - Wrongful loss to another person

Theft (Sec 378 IPC)

- *Dishonestly* taking any *moveable property* out of the possession of any person *without* the *consent* of that person, or moving that property in order to such taking, is known as theft.
- s. 379 - 3Y/ F/ Both

Essential Ingredients of Theft

- Dishonest intention to take the property
- Property must be moveable
- Property must be taken out of the possession of another person.
- There must be some removal (moving) of the property, in order to accomplish the taking.
- The said taking must be without consent of the person.
- **[Illus 1, 2, 3, 4, 5]**

Illustration- 1

- **A & B** two probationers at MCR decide to go to Paradise for dinner. They go to the Institute's reception and tell the Security there that they have been sent by the Course Director. They take the keys of the gypsy, drive in it to Paradise, have dinner and come back and return the keys to the guard. Are **A & B** guilty of theft?

Illustration -2

- The Reader in the Court of the SDM, Uppal, maintains all the files relating to the court work of the SDM. The Reader helps one of the litigants in the SDM's court by providing him with the case file. The litigant takes out an important document and replaces it by another. Can the Reader be held liable for theft?

Illustration-3

- **A** finds a ring lying on the road leading to Tungabhadra. She picks it up & wears it. Is **A** guilty of theft? (Is property taken out of any one's possession?)

Illustration-4

- **A** goes to the room of **B** in Godavari Hostel. There is a ring lying on the table in the room. **A** picks it up and wears it. Is **A** guilty of theft?

Illustration-5

- **Z** going on Trek, entrusts his laptop to **A** the caretaker of the hostel, till **Z** shall return. In **Z**'s absence **A** goes and sells the laptop in the market. Is **A** guilty of theft?

Illustrations 5A/5B

X keeps a bag on the luggage stand(train).Z removes it without the knowledge of X. Is it theft?

X has a bag in his lap. Y snatches away the bag from X. Is this a case of theft?

Snatching nose stud/ear ring=robbery

Extortion {English law – Blackmail}

Sec 383 IPC

Intentionally putting any person in fear of any injury to that person, or any other, and thereby *dishonestly inducing* 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 valuable security.

S. 384 – 3Y/F/both

Essential ingredients of Extortion

- **Intentionally putting any person in the fear of injury.**
- to himself or to some other person.
- **Dishonestly inducing**, the person put in the fear of injury **to deliver**
 - any property or valuable security
 - to any person

Note :-Either presence of the offender is not there or fear of instant violence or immediate delivery

Illustration- 6

- A sub-inspector of police arrests a person **X** and wrongfully confines him in the police lockup and demands money from him. He threatens him that unless he pays up, he will not be released. **X** arranges the money and pays the sub-inspector. The sub-inspector is guilty of extortion.

Illustration -7

- A notorious criminal writes to Z “if you do not send me Rs. 5,00,000 I shall see that your only son is killed by my gang”. Z does not pay up the amount demanded & reports to the police. Is the criminal liable for extortion?**
- Would the position be different if A had delivered the amount demanded, in consequence of the threat?**

Distinction between Extortion & Theft

- The offence of extortion differs from the offence of theft in that while in theft, property is removed or taken away without the consent of the person in possession thereof whereas in extortion there is a delivery of property with consent induced by fear. Delivery of property as distinct from taking away property is of the essence of the matter in extortion.

Distinction between Exhortation and Theft

1. In theft, only movable property may the subject-matter of the offences while in extortion the property is not limited only to movable one.
2. In theft, the property is taken by the offender while in extortion the property is delivered to the offender.
3. **Where there is no delivery of property but the person put in fear offers no resistance to the carrying away of property, the offence is not extortion but robbery (by theft)**

Difference

THEFT

- Without consent (Property changes)
- Movable property
- Taken
- No force

EXTORTION

- Wrongfully obtaining – consent
- Any
- Delivered
- Fear of injury

Robbery

- Sec 390 - Robbery = theft or extortion
 - Robbery is a special and **aggravated form of theft or extortion**
 - All elements of **either the theft or extortion** must be present in robbery

10Y + fine/Between – sunset to sunrise – 14 Years

When Theft becomes Robbery

- Theft is robbery if *in order to*
 - commit theft or
 - in committing theft or
 - in carrying away or attempting to carry away property obtained by theft
- the offender, *for that end*, voluntarily causes or attempts to cause, to any person
 - death
 - hurt or
 - wrongful restraint or
 - fear of instant death or hurt or wrongful restraint
- **Robbery = Theft + violence or fear of instant violence**

Illus 8,9

Illustration - 8

- A holds down **Z** and fraudulently takes **Z's** money and jewels from his clothes, without **Z's** consent. Here **A** has committed *theft* and in order to commit the theft has caused *wrongful restraint* to **Z**. **A** has therefore committed *robbery*.

Illustration - 9

- **A** steals a handbag from a house and while carrying it away, he sees the owner **B** coming back. **B** chases him and in the ensuing fight **A** stabs **B** with a knife and injures him. Is **A** liable for robbery (by theft)?

When Extortion becomes Robbery

- If the offender at the time of committing extortion
 - is in the *presence of the person put in fear* and
 - commits the extortion by putting the person in fear of *instant death, instant hurt or instant wrongful restraint*
 - to that person or to some other person
 - by so putting in fear, *induces* the person so put in fear, *then and there to deliver up* the thing extorted.
- Robbery = Extortion + presence of the offender + fear of instant violence + immediate delivery.
- Illus 10/11

Illustration - 10

- **A** meets **Z** on the 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 the fear of *instant hurt* and being at the time of committing the extortion, *in his presence*. **A** has therefore committed robbery. (Mugging-Mugger threatens)

Illustration - 11

- **A kidnaps Z's child. He calls up Z saying "your child is in the hands of my gang and will be put to death unless you send us ten lakh rupees". Z delivers the money to A. Is this extortion or robbery?**
- **Would the position be different if the offender is in the presence of Z and the child is shown live on a video as well as money is given to the offender**

Dacoity [s. 395 – Life Imp]

Sec 391

- Dacoity is robbery
 - when committed or
 - attempted to be committed
 - or aided- by five or more persons conjointly
- Preparation of Dacoity is also punishable

[Illus 12]

Illustration -12

- **The house of a person is raided by a gang of dacoits, one of whom stands outside on guard while the other 6 enter the house and break open the locks. The neighbours alert the police and on hearing the siren of the police jeep the robbers run away.**
 - **What offence if any have they committed?**
 - **Would the person who stood outside also be liable?**

Sec 403-Criminal misappropriation

- A person commits criminal misappropriation if he
 - dishonestly misappropriates or converts to his own use
 - any movable property
- Others property (movable)
- Possession- innocently
- Subsequent change in intention
- 2Y/F/both

Criminal misappropriation(CMP)

- Criminal Misappropriation takes place not when one has innocently come into the possession of a thing, but when a subsequent change of intention, or from the knowledge of some new fact with which the party was not previously acquainted, he keeps it, after which the retaining becomes wrongful or fraudulent.
- The accused acquires the possession innocently, but its retention becomes wrongful and fraudulent either from any subsequent change of intention or from knowledge of some new fact with which the party was not previously acquainted . The offence is completed by a mental act. **[Illus 13, 14, 15]**

Illustration -13

- **A** goes into the room of **Y** in Godavari hostel. He finds a T-shirt lying on the chair, which he believes is his. So he takes the T-shirt and keeps it.
 - Is **A** guilty of criminal misappropriation?
- Later **A** discovers that his own t-shirt was actually with the washerman. However, he retains **Y's** t-shirt. Is he now guilty of criminal misappropriation?

Illustration -14

- **Z** finds a cheque payable to the bearer. He can form no conjecture about the person who has lost the cheque but the name of the person who has drawn the cheque appears. **Z** appropriates the cheque. Is he guilty of criminal misappropriation?

Illustration -15

- **A & B** are about to travel by the same train from Delhi. **A** has a ticket for Bhopal and **B** has a ticket for Bangalore. **B** hands over his ticket to **A** for checking the same. **A** under the pretence of returning it, substitutes the ticket.
 - Is **A** guilty of any offence- theft or criminal misappropriation?

Differences – s. 378 (T) & s. 403 (M-CMP)

- T- Dishonest intention to take property
- M- possession obtained innocently
- T- Offence takes place when there is some removal (moving)
- M- offence - actual misappropriation/ conversion
- T- Property must be taken out of the possession of another person
- M- offender has possession lawfully(or innocently)
- T- initial taking wrongful
- M- initial taking (may be) innocent but subsequent change of intention is there

Sec 405 Criminal Breach of Trust

- The offence is committed if
 - accused was entrusted with the property or dominion over it
 - Accused misappropriates it or converts it to his own use or uses it or disposes it off
 - in violation of any direction of law or contract
- 3Y/F/both
- The difference between CMP & CBT is that in respect of CBT, the accused is entrusted with property or with dominion or control over the property.
- [Illus 16, 17]

Illustration -16

- The servant of a liquor contractor has been entrusted by his master with liquor to sell the same and render accounts to the master. The servant adulterates the liquor with water and sell it and appropriates to himself, the profit earned on the increased quantity. Is the servant liable for an offence?/**WHISKY**

Illustration -17

- The Sarpanch of a village is entrusted with the job of distributing old age pension in the village. He withdraws the amount, credited to his account by the government, for disbursement amongst the pensioners. However, in the meantime, there is urgent need of money in his business. He uses the money withdrawn for disbursement of pensions & subsequently after 15 days, recoups the amount and distributes the pensions. What offence if any, has the Sarpanch committed?

Distinction between CMP and CBT

- In criminal breach of trust there is conversion of property held by a person in a fiduciary capacity i.e the property is entrusted to him. In case of criminal misappropriation the possession of property which is appropriated may come in any way.
- (2) In criminal breach of trust, there is some kind of contractual relationship between the parties either express or implied, but in criminal misappropriation there is no such relationship.
- **CMP=moveable/CBT= either moveable or immovbl**
- **CMP = No express entrustment/CBT=express entrustment**

Difference – 378(Theft) & 405(CBT)

- 378- property moved – dishonest intention
- 405 – offender lawfully entrusted – property
- 378- possession of property – without consent
- 405 – possession is derived- consent of owner

Cheating (415-420) 1 yr/Delivery 7y

- A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.
- A, by pledging as diamonds article which he knows are not diamonds intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.
- 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 thereby dishonestly induces Z to buy. A cheats