

WHITE COLLAR CRIMES WITHIN INDIAN ADMINISTRATIVE AND JUDICIAL SYSTEM

Meenakshi Awasthi* & Aishwarya Pandey**

INTRODUCTION

The thought of white collar crime was evolved by the Edwin. H. Sutherland, in 1939. He defined white collar crime as one committed by a person of respectability. Also, he pointed out that besides the traditional crimes such as assault, robbery, murder, rape; kidnapping and other acts involving violence, there are other certain anti-social activities which the persons of upper class carry on in course of their occupation or business. These activities for a long time were accepted as a part of business strategy necessary for a clever professional man his success in business. Thus, any complaint against such strategy often went overlooked and unpunished.

The concept of white collar crime found its place in criminology for the first time in 1941 when Sutherland published his research paper on white collar criminality in the American sociological Review. He defined white collar crime as a “crime committed by persons of respectability and high social status in the course of their occupation”. Examples of white collar crimes can be publication of manipulated balance sheets and profit and loss accounts of business, passing of goods and concealment of defects in the commodity for sale etc.

LEGISLATIONS AND ITS SHORTCOMINGS WITH RESPECT TO WHITE COLLAR CRIMES

There is much legislation that have been drafted by the parliament of India and executed to curb the rage of white collar crimes occurring in the society. The well-known legislations in fulfilling this purpose are Essential Commodities Act of 1955, Industrial Development and Regulation Act of 1951, Import and Export (Control) Act of 1947, Foreign Exchange Regulation Act of 1974, Companies Act of 2013, Prevention of Money Laundering Act of 2002, Securities Exchange Board of India, Indian Penal Code and many others. There are many instances where people went contrary to the legislation and the law that was enacted for

* *Post Graduate in Law*; Contact: +91-7081181118 ,

** *Post Graduate in Law*; Contact: +91-8604963696

removing the menace of the white collar crimes. The very famous case of Satyam Computers where a fraud of 7000 Cr was committed by Ramalinga Raju and for which he was punished with a penalty of ONLY 5 Cr, the 2G Spectrum Scam, there are other cases where the crime gets unnoticed or voluntarily unacknowledged by the courts involving the very famous industrialists or film stars for that matter, naming a few would be Vijay Mallya who fled from India already convicted in the money laundering case and is still not behind the bars.

The major reasons as to why such crimes are committed are the shortcomings that exist in the legislations in force which has to be dealt with in a serious manner. Firstly, No commission as such is being established to deal in the white collar crimes cases. Secondly, there is no inclusion of white collar crimes in the Indian Penal Code. Thirdly, there is a soft attitude in the law makers and prosecutors towards white collar criminals as such criminals have closer contacts with the social control agencies on account of their social status. Also, top ranking public officials are friendlier with the persons involved in white collar crimes.

The white collar crime costs several times greater than that of traditional crimes like murder theft, rape etc. the financial loss to society from white collar crimes is far greater than the loss from predatory crime committed by persons of lower class. The average loss per burglary is less than 10,000 on the other hand there are crores and crores rupees embezzlement by big industrialist, politician and other big shots of the business industry reported in one year. So, white collar criminals violate trust and create distrust which lowers social morale and results in social disorganization as compared to other crimes.

SUGGESTIONS

- First of all there should be a separate chapter on white collar crimes which should be incorporated in the Indian Penal Court by amending the court so that convicted white collar criminals do not escape punishment because of their high social status.
- There should be special tribunals constituted to award sentence of imprisonment for a long period of time to white collar criminals.
- Strict regulatory laws and serious punishments for white collar criminals may help in reducing these crimes.

- Public awareness program should be done through media of press and other audio visual ads for such crimes.
- There should be a national crime commission which may specially tackle the problem of such crimes and deal with white collar criminals.

CONCLUSION

We can conclude that white collar criminals are master minded as it is carried out in a planned manner by technocrats, big business man, highly qualified persons and corporate officials. These kinds of crimes are done in the form of scams, frauds etc, which are helped by technological advancements. Individuals get victimized with pecuniary loss, also, these offenses damage the economy as a whole. There are various special laws that regulate customs, excise ,taxes, foreign exchange ,trade and commerce relating to export and import and are enacted and enforced by their respective departmental enforcement agencies which are created under statutory but despite these special laws and independent enforcement agencies for handling crime there is no effective implementation of such laws, also there is no effective special legislation to curb the white collar crime , that is why the crime rate has not declined on the contrary, crimes of this nature are constantly rising. It is indeed it is a high time for all those who are concerned with the administration of justice in the sphere of crimes committed.