

part with his property. In theft the element of force does not arise.

**1. 'Puts any person in fear of any injury'.—**The 'fear' must be of such a nature and extent as to unsettle the mind of the person on whom it operates, and takes away from his acts that element of free voluntary action which alone constitutes consent.<sup>113</sup> Thus threatening to expose a clergyman, who had criminal intercourse with a woman in a house of ill-fame in his own church and village, to his own bishop, and to the archbishop, and also to publish his shame in the newspapers, was held to be such a threat as men of ordinary firmness could not be expected to resist.<sup>114</sup> The making use of real or supposed influence to obtain money from a person against his will under threat, in case of refusal, of loss of appointment, was held to be extortion.<sup>115</sup> The accused husband took his wife to a forest and obtained her ornaments under threats to kill her. The ornaments were subsequently recovered from him. He was held guilty of the offence of extortion, not robbery.<sup>116</sup> A refusal to allow people to carry away firewood collected in a Government forest without payment of proper fees;<sup>117</sup> a payment taken from the owners of trespassing cattle under the influence of a threat that the cattle would be impounded if the payment were refused;<sup>118</sup> the obtaining of a bond under the threat of non-rendering of service as a *vakil*,<sup>119</sup> and a refusal to perform a marriage ceremony and enter the marriage in the register unless the accused was paid Rs. 5,<sup>120</sup> were held not to constitute extortion.

### **[s 384.3] Threat of criminal accusation.—**

The terror of criminal charge, whether true or false, amounts to a fear of injury.<sup>121</sup> The guilt or innocence of the party threatened is immaterial. Even the threat need not be a threat to accuse before a judicial tribunal, a threat to charge before any third person is enough.<sup>122</sup>

Housing Loan taken by the complainant. Proceedings initiated by issuing notice under [section 13 \(2\) of SARFAESI Act, 2002](#) would not amount to extortion.<sup>123</sup>

**2. 'Dishonestly induces the person ... to deliver to any person any property'.—**Delivery by the person put in fear is essential in order to constitute the offence of extortion. Where a person through fear offers no resistance to the carrying off of his property, but does not deliver any of the property to those who carry it off, the offence committed will be robbery and not extortion.<sup>124</sup> The offence of extortion is not complete before actual delivery of the possession of the property by the person put in fear.<sup>125</sup>

When the accused honestly believes that the complainant had taken the money belonging to him (the accused), an attempt to get it back cannot be said to be with the intention of causing wrongful loss to him.<sup>126</sup>

Where the headmaster of a school called a lady teacher to a place where he was alone and induced her to sign three blank papers by threatening an attack on her modesty, the Supreme Court held that it amounted to an offence under this section.<sup>127</sup>

An accused was charged with the offence of murder by resorting to extortion. The prosecution failed to prove several particulars relating to the major offence, but proved the commission of minor offence punishable under section 384 read with section 34. The conviction of the accused for the minor offences under section 384 read with section 34 was held to be proper.

#### [s 384.4] 'To any person'.—

It is not necessary that the threat should be used, and the property received, by one and the same individual. It may be a matter of arrangement between several persons that the threats should be used by some, and property received by others; and they all would be guilty of extortion.<sup>128.</sup>

#### [s 384.5] CASES.—

The accused persons came to the place of their victims with fire arms and forced them to handover their gun. The accused then abducted them and shot them dead in nearby orchard. The Court said that all of them who came there to commit extortion must be attributed knowledge that killings might take place in the prosecution of their object. All of them were held vicariously liable for murder. Their conviction under sections 384/149 and 302/149 was proper.<sup>129.</sup>

#### [s 384.6] Compounding.—

The offences under sections 384 and 506 Part II IPC, 1860 are not compoundable under section 320 of the Cr PC, 1973. Therefore, the prayer of compounding the offences made by the complainant and A1 in their joint application supported by their affidavits cannot be legally accepted.<sup>130.</sup>

111. *Dhananjay v State of Bihar*, (2007) 14 SCC 768 [LNIND 2007 SC 111] : 2007 Cr LJ 1440 ; *J Senthil Kumar v State of Jhar* 2006 Cr LJ 4524 (Jha).

112. See the judgment of the Supreme Court in *Dhananjay v State of Bihar*, (2007) 14 SCC 768 [LNIND 2007 SC 111] .

113. *Walton v Walton*, (1863) 9 Cox 268. Bare threats are not enough. *Ramjee Singh v State of Bihar*, 1987 Cr LJ 137 (Pat).

114. *Miard*, (1844) 1 Cox 22.

115. *Meer Abbas Ali v Omed Ali*, (1872) 18 WR 17 .

116. *State of Karnataka v Basavegowda*, 1997 Cr LJ 4386 (Kant). See also *Raju v State of Rajasthan*, 1997 Cr LJ 4547 (Raj).

117. *Abdul Kadar v State*, (1866) 3 BHC (Cr C) 45.

118. (1880) 1 Weir 438, 440; *Habib-ul-Razzaq v State*, (1923) 46 All 81 .

119. (1870) 5 MHC (Appex) xiv.

120. *Nizam Din v State*, (1923) 4 Lah 179.

121. *Mobarruk*, (1867) 7 WR (Cr) 28.

122. *Robinson*, (1837) 2 M & R 14; *Abdulvhab Abdulmajid Shaikh v State of Gujarat*, (2007) 4 SCC 257 [LNIND 2007 SC 527] : (2007) 3 Guj LR 1841, conviction for extortion, all the essentials proved.

123. *GIC Housing Finance Ltd v The State of Maharashtra*, 2016 Cr LJ 4824 (Bom) : 2017 (2) Bom CR (Cr) 234 .
124. *Duleelooddeen Sheik*, (1866) 5 WR (Cr) 19.
125. *Labhshanker*, AIR 1955 Sau 42 .
126. *Mahadeo v State*, (1950) Nag 715.
127. *Chander Kala v Ram Kishan*, AIR 1985 SC 1268 [LNIND 1985 SC 166] : 1985 Cr LJ 1490 : (1985) 4 SCC 212 [LNIND 1985 SC 166] : 1985 SCC (Cr) 491.
128. *Shankar Bhagvat*, (1866) 2 BHC 394.
129. *Rameshwar Pandey v State of Bihar*, 2005 Cr LJ 1407 : AIR 2005 SC 1064 [LNIND 2005 SC 1058] : (2005) 9 SCC 210 [LNIND 2005 SC 1058] .
130. *Karipi Rasheed v State of AP* (2009) 17 SCC 515 [LNINDU 2009 SC 26] .

# THE INDIAN PENAL CODE

## CHAPTER XVII OF OFFENCES AGAINST PROPERTY

### Of Theft

### Of Extortion

**[s 385] Putting, person in fear of injury in order to commit extortion.**

**Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.**

### COMMENT—

By this section a distinction between the inchoate and the consummated offence is recognised. The attempt to commit extortion may proceed so far as to put a person in fear of injury, or there may be an attempt to excite such fear; but there may not be any delivery of property, etc. This section punishes the putting of a person in fear of injury in order to commit extortion.

The injury contemplated must be one which the accused can inflict, or cause to be inflicted. A threat that God will punish a man for some act is not such an injury. No injury can be caused or threatened to be caused unless the act done is either an offence or such as may properly be made the basis of a civil action.<sup>131.</sup>

### **[s 385.1] CASES.—**

A cloth-seller was threatened with the imposition of a fine if he continued to sell foreign cloth. He continued to sell such cloth, and, to enforce payment of the fine, his shop was picketed for two hours and he lost a certain amount of business and ultimately paid the fine. It was held that the person responsible for the picketing was guilty of an offence under this section as well as under section 384.<sup>132.</sup> Where a *mukhtar* in a criminal case threatened with intent to extort money to put questions to prosecution witnesses which were irrelevant, scandalous and indecent, and which were intended to annoy and insult, it was held that he was guilty under this section.<sup>133.</sup> No sanction is necessary for prosecuting a police officer under this section for his act abetting the accused to extort money from a person by putting him under fear of arrest. Such an act is not a part of his official functions.<sup>134.</sup>

<sup>131.</sup> *Tanumal Udhasing*, (1944) Kar 146 .

<sup>132.</sup> *Chaturbhuj*, (1922) 45 All 137 .

133. *Fazlur Rahman*, (1929) 9 Pat 725.

134. *Chand Ahuja v Gautam K. Hoda*, [1987 Cr LJ 1328](#) (P&H).

# THE INDIAN PENAL CODE

## CHAPTER XVII OF OFFENCES AGAINST PROPERTY

### Of Theft

### Of Extortion

**[s 386] Extortion by putting a person in fear of death or grievous hurt.**

**Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.**

### COMMENT—

If the fear caused is that of death or grievous hurt it naturally causes great alarm. The section therefore, provides for severe penalty in such cases.

Where the accused wrote letters demanding ransom from the father of the boy whom they kidnapped, putting the father in fright of the boy being murdered and there was throughout the likelihood of the boy being murdered if the ransom money was not paid, the accused were held guilty under this section.<sup>135</sup>

<sup>135</sup>. *Ram Chandra v State*, [AIR 1957 SC 381](#) : [1957 Cr LJ 567](#) .

# **THE INDIAN PENAL CODE**

## **CHAPTER XVII OF OFFENCES AGAINST PROPERTY**

### **Of Theft**

### **Of Extortion**

**[s 387] Putting person in fear of death or of grievous hurt, in order to commit extortion.**

**Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.**

### **COMMENT—**

The relation between this section and section 386 is the same as that between section 385 and section 384.

# THE INDIAN PENAL CODE

## CHAPTER XVII OF OFFENCES AGAINST PROPERTY

### Of Theft

### Of Extortion

**[s 388] Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.**

Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with <sup>136.</sup>[imprisonment for life], or with imprisonment for a term which may extend to ten years or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377 of this Code, may be punished with <sup>137.</sup>[imprisonment for life].

### COMMENT—

It is immaterial whether the person against whom the accusation is threatened be innocent or guilty, if the prisoner intended to extort money. The aggravating circumstance under this section is the threat of an accusation of an offence punishable with imprisonment for life, or with imprisonment for ten years. If the accusation is of unnatural offence then the penalty provided is severer.

<sup>136.</sup> Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

<sup>137.</sup> Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).



# THE INDIAN PENAL CODE

## CHAPTER XVII OF OFFENCES AGAINST PROPERTY

### Of Theft

### Of Extortion

**[s 389] Putting person in fear of accusation of offence, in order to commit extortion.**

**Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit an offence punishable with death or with <sup>138</sup>[imprisonment for life], or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377 of this Code, may be punished with <sup>139</sup>[imprisonment for life].**

### COMMENT—

This section bears the same relation to section 388 as section 385 bears to section 384.

<sup>138</sup>. Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

<sup>139</sup>. Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

# **THE INDIAN PENAL CODE**

## **CHAPTER XVII OF OFFENCES AGAINST PROPERTY**

### **Of Theft**

### **Of Robbery and Dacoity**

#### **[s 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<sup>1</sup> or attempting to carry away property obtained by the theft, the offender, for that end,<sup>2</sup> voluntarily causes<sup>3</sup> or attempts to cause to any person<sup>4</sup> 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, 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 instant hurt, or of instant wrongful restraint.

#### **ILLUSTRATIONS**

- (a) A holds Z down and fraudulently takes Z's money and jewels from Z's clothes without Z's consent. Here A has committed theft, and in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.
- (b) A meets Z on the highroads, 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 fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.
- (c) A meets Z and Z's child on the highroad. A takes the child and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.
- (d) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees". This is extortion,