

Section be moved to
act to protect



**ASSIGN
BUSTER**

Section 383 of Indian Penal Code, 1860 – Extortion: Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces 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 a valuable security, commits “ extortion”. Illustration: A cloth seller was threatened with the imposition of a fine if he continued to sell foreign cloth. He continued to sell such cloth. His shop was picketed for two hours to enforce the payment of fine.

He lost some business as a result of picketing which induced him to pay the fine. It was held that the person responsible for the picketing was guilty of extortion. It is not necessary that the delivery of the property is made to the offender himself; it may be made to any person as directed or desired by the offender. Likewise the threat may not be of injury directly to the person put in fear but to some other person in whom the person put in fear may be interested in any manner so as to be moved to act to protect such other person from the threatened injury. The offence of extortion is committed by over-powering the Will of the owner or possessor of property as the case may be. In theft it is necessary that the property which is the subject-matter of theft is in possession of some person, it being taken out from whose possession constitutes the offence; such other person may or may not be the owner thereof. Extortion may be committed on a person who may not be in possession of the property but who being owner or otherwise authorised is capable of affecting a transfer thereof by delivering anything signed or sealed. The expression “ injury” has been defined in Section 44 as meaning

any harm whatever illegally caused to any person in body, mind, reputation or property.

The injury contemplated must be one which the accused himself can inflict or cause to be inflicted, and a threat of divine punishment is not such an injury. The Law Commissioners who drafted the Code observed as follows : “ We conceive that it will be a question for the Court whether the injury threatened was such as was likely to produce the effect intended, and whether under the circumstance the party was really put in fear, believing the injury to be inevitable, if he did not comply”. Nothing can be said to be an injury unless it is either an offence or a civil wrong a harm which may be legally caused is not an injury. The age, sex and situation of the person threatened must be taken into consideration in deciding whether such person could be frightened by the threat in question. To constitute the offence it seems necessary that the person threatened should be actually put in fear.

Accused persons surrounded victims and extorted certain amount as price for sparing them. This amount was paid to accused. No evidence of any property having been looted by accused. Accused persons were liable under Section 381/149, I.

P. C. In extortion the Will of the victim has to be overpowered by putting him in fear of injury.

Forcibly taking any property will not come under this definition. It has to be shown that the person was induced to part with the property by putting him in fear of injury. R. S. Naik v. A.

R. Antulay, is a very significant pronouncement on the point. In that case, the Supreme Court has observed that before a person can be said to put any person, to fear of any injury to that person, it must appear that he had held out some threat to do or omit to do what he is legally bound to do in future. If all that a man does is to promise to do a thing which he is not legally bound to do and says that if money is not paid to him he would not do that thing, such act would not amount to an offence of extortion. In the instant case merely because the accused was the Chief Minister at the relevant time and the Sugar Co-operatives had some of their grievances pending consideration before the Government and pressure was brought about to make the donations promising consideration of such grievances possibly by way of reciprocity, it could not be said, the Court held, that the ingredients of the offence of extortion have been made out. There was no evidence at all that the managements of the Sugar Co-operatives had been put to any fear and the contributions had been paid in response to threats.

Forms of Extortion: The following are the aggravated forms of extortion: (1) Extortion by putting a person in fear of death or grievous hurt to that person or to any other—imprisonment of either description upto ten years and fine (Section 386). Where the modus operandi disclosed in the letters from the accused demanding ransom from the father of the boy whom they have kidnapped is by putting him in fright of the boy being murdered and there is throughout the likelihood of the boy being murdered in case the ransom money was not paid for one reason or the other the accused is guilty of the aggravated forms of kidnapping and extortion (Sections 364 and 387). (2) Putting or attempting to put any person in fear of death or of grievous hurt to

himself or to any other in order to commit such offence—Imprisonment of either description upto seven years and fine (Section 387). (3) Extortion by threat of accusation of an offence punishable with death or imprisonment for life, or ten years' imprisonment or of having attempted to induce any other person to commit such offence—for accusation of unnatural offence under Section 377, I. P. C.

— punishment with imprisonment for life, or with imprisonment upto ten years and fine (Section 388). (4) Putting or attempting to put any person in fear of an accusation mentioned in Section 388 in order to commit extortion — Punishment under last section (Section 389). The expression “ putting or attempting to put a person in fear in order to the committing of extortion” indicates an attempt as distinct from the completed act. The above four different aggravated forms of extortion are two different forms of extortion together with their corresponding attempts. An attempt to commit plain and simple extortion is punishable under Section 385. Putting or attempting to put any person in fear of any injury in order to the committing of extortion is punishable with imprisonment upto two years or fine or both (Section 385).