

As of this section if he
is



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As to when extortion is robbery it says that it is so if at the time of committing the extortion the offender is in presence of the person put in fear and commits the extortion by putting that person in fear of either instant death, or of instant hurt, or of instant wrongful restraint either to that person or to some other person, and, by so putting in fear, induces the person so put in fear to deliver up the thing extorted then and there. The explanation attached to the section says that the offender is said to be present within the meaning of this section if he is sufficiently near to put the other person in fear of instant death, or of instant hurt, or of instant wrongful restraint. Even though a robbery would always be either theft or extortion as shown by the definition, in practice it may sometimes be quite difficult to identify as to which part is robbery by theft and which one robbery by extortion. For instance, A enters into the house of and pointing a revolver at him asks him to surrender all the valuables. While starts surrendering the valuables, A himself starts picking up some of the other valuables. Thus, A is guilty of robbery by theft of those valuables which he himself picks up , and of robbery by extortion of those valuables which handed over to him.

In the end, A may not remember as to which of the valuables were handed over to him by and which of them he himself picked up. But there is no doubt that part of the robbery was by theft and part by extortion. Robbery by theft In robbery by theft whatever is done or attempted to be done must be under any of these four circumstances only : (a) in order to the committing of the theft, or (b) in committing the theft, or (c) in carrying away property obtained by theft, or (d) in attempting to carry away property obtained by theft. The offender must voluntarily cause death, hurt or wrongful restraint of

anyone, or he must voluntarily attempt to cause death or hurt or wrongful restraint of someone, or he must voluntarily cause fear of instant death, or fear of instant hurt, or fear of instant wrongful restraint.

All this must be done 'for that end'. The expression 'for that end' is very important and has been used to indicate any of the four ends already mentioned above. In other words, the four ends are (a) in order to the committing of theft, or (b) in committing the theft, or (c) in carrying away property obtained by theft, or (d) in attempting to carry away property obtained by theft.

Robbery by extortion In robbery by extortion the offender must be in presence of the person put in fear. This presence is proved only if he is sufficiently near to put the other person in fear of instant death, or of instant hurt, or of instant wrongful restraint. He must commit the extortion. This extortion must be committed by putting that person or some other persons in fear of instant death, or of instant hurt, or of instant wrongful restraint. By so putting him in fear, the offender must induce the person so put in fear then and there to deliver up the thing extorted. **Decided cases** Where two views are possible that hurt was caused to help removal of the property which was stolen or to enable the offender to make good his escape, after he had committed the theft, the view favourable to the accused, that is to say, that hurt was caused to enable the offender to make good his escape must be accepted.

Where the accused had abandoned the property which he had obtained by theft, and threw stones at his pursuer with a view to deter him from pursuing

him, he was held guilty of theft only and not of robbery. Similarly, where armed accused persons were removing crops from the land belonging to the complainant, and when he protested against this removal they threatened him by telling him that if he ever attempted to enter the land in future he would be killed, it was held that the offenders had committed theft and not robbery. One of the two accused persons, in association, relieved the victim of his watch in a running train, and when they tried to get down from the train, the victim raised an alarm whereupon the second accused slapped him. It was held that since the hurt was caused while carrying away the property obtained by the theft, both were guilty of committing robbery by theft. The use of the words 'to any person' shows that the act on the part of the offender may not necessarily be against the person from whose possession the property has been taken; it may be any other person also, but person it has to be. Therefore, obstruction of a truck when its occupants are not obstructed is not covered by this section. Snatching suitcases by throwing chilli powder in the eyes amounts to an offence as defined under section 390 of the Code.

In *State of Maharashtra v. Vinayak Tukaram Utekar* the accused snatched the gold buttons from the shirt of a person and ran away while running away he was caught by the informant to whom the accused gave a knife blow. The Bombay High Court held that it could not be contended that he gave the knife blow only to extricate himself from the clutches of the informant and not to ensure the taking away of the stolen gold buttons.

In *Venu v. State of Karnataka* the Supreme Court held that the words 'for that end' in section 390 refer to the four things mentioned before these

words, i. e., in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft.