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NAME : **BILAWAL KHAN**
SEMESTER : **6TH**
PROGRAM : **BA LLB**
SUBJECT : **CRIMINAL LAW-II**
LECTURER : **MA'AM FAKHRA MUBARAK**

Qs. No. 1) Define Theft, Extortion, Robbery and Dacoity. Also Differentiate between theft and extortion and robbery and dacoity.

THEFT

In general, theft is committed when a person's property is taken without his consent by someone. For example, A enters the house of B and takes B's watch without B seeing and puts it in his pocket with an intention to take it for himself. A commits theft. However, besides the ordinary meaning conveyed by the word theft, the scope of theft is quite wide. Section 378 of PPC defines Theft. Based on the definition, the following are the constituents of theft:-

1. Dishonest intention to take property

There must be dishonest intention on the part of the offender. As defined in **Section 24** of PPC, dishonestly means that there must be a wrongful loss to one or wrongful gain to another. For example, A quietly takes money from B's purse for his spending. Here, A causes wrongful loss to B and is thus guilty of theft. However, if the intention of the offender is not to cause a wrongful loss or wrongful gain, he does not commit theft even if he takes the property without consent. For example, A gives his watch to B for repairing. B takes the watch to his shop. A, who does not owe any debt to B for which B has the right to retain the watch, follows B and forcibly takes back the watch. Here, A does not commit theft because he has no dishonest intention. Similarly, when A, believing, in good faith, a property in possession of B, to be his, takes it from B, it is not theft.

2. Property must be movable

An immovable property cannot be stolen or moved from the possession so a theft cannot happen in respect of an immovable property. However, as per **Explanation 1** of section 378, as long as a thing is attached to earth, not being movable, is not subject of theft. However, as soon as it is severed from the earth, it is capable of being the subject of theft. Further, **Explanation 2** says that a moving affected by the same act that causes severance, may be theft. For example, a tree on A's land is not capable of being the subject of theft. However, if B, with an intention to take the tree, cuts the tree, he commits theft as soon as the tree is severed from the earth.

3. Property must be taken out of possession of another

The property must be in possession of someone. A property that is not in possession of anybody cannot be a subject of theft. For example, wild dogs cannot be a subject of theft and so if someone takes a wild dog, it will not be theft. It is not important whether the person who possess the thing is the rightful owner of that thing or not. If the thing is moved out of mere possession of someone, it will be theft. For example, A, a coin collector, steals some coins from B, a fellow coin collector. A finds out that they were his coins that were stolen earlier. Here, even though B was not the rightful owner of the coins, he was still in possession of them and so A is guilty of theft.

4. Property must be taken without consent

In order to constitute theft, property must be taken without the consent of person possessing it. As per **Explanation 5**, consent can be express or implied. For example, A, a good friend of B, goes to B's library and takes a book without express consent of B, with the intention of reading it and returning it. Here, A might have conceived that he had B's implied consent to take the book and so he is not guilty of theft. Similarly, when A asks for charity from B's wife, and when she gives A some clothes belonging to B, A may conceive that she has the authority to give B's clothes and so A is not guilty of theft.

5. Physical movement of the property is must

The property must be physically moved. It is not necessary that it must be moved directly. As per **Explanation 3**, moving the support or obstacle that keeps the property from moving is also theft. For example, removing the pegs to which bullocks are tied, is theft. Further, as per **Explanation 4**, causing an animal to move, is also considered as moving the things that move in consequence. For example, A moves the bullock cart carrying a box of treasure. Here, A is guilty of moving the box of treasure.

EXTORTION

In Extortion, a person takes the property of another by threat without any legal justification. Section 383 of PPC defines extortion.

The following are the constituents of extortion -

1. Intentionally puts any person in fear of injury - To be an offence under this section, putting a person in fear of injury intentionally is a must. The fear of injury must be such that is capable of unsettling the mind of the person threatened and cause him to part with his property. Thus, it should take away the element of freeness and voluntariness from his consent. The truth of the threat under this section is immaterial.

2. Dishonestly induces a person so put in fear to deliver to any person any property - The second critical element of extortion is that the person who has been put to fear, must deliver his property to any person. Dishonest inducement means that the person would not have otherwise agreed to part with his property and such parting causes him a wrongful loss. Further, the property must be delivered by the person who is threatened. Though, it is not necessary to deliver the property to the person threatening. For example, if A threatens B to deliver property to C, which B does, A will be guilty of extortion.

The delivery of the property by the person threatened is necessary. The offence of extortion is not complete until delivery of the property by the person put in fear is done.

Extortion can also happen in respect of valuable security or anything signed that can become a valuable security. For example, A threatens B to sign a promissory note without the amount or date filled in. This is extortion because the note can be converted to valuable security.

ROBBERY

Robbery is a severe form of either theft or extortion. In certain circumstances, a theft or an extortion gravitates to robbery. Section 390 defines robbery as follows -

Section 390 - 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 or attempting to carry away property obtained by theft, the offender for that end, voluntarily causes or attempts to cause to any person 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, or 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.

Thus, a theft becomes a robbery when the following two conditions are satisfied -

1. when someone voluntarily causes or attempts to cause

A) death, hurt, or wrongful restraint or

B) fear of instant death, instant hurt, or instant wrongful restraint

2) the above act is done

A) in order to the committing of theft or

B) committing theft or

C) carrying away or attempting to carry away property obtained by theft.

For example, A holds Z down, and fraudulently takes Z's money from Z's clothes, without Z's consent. A has committed theft and in order to commit that theft, he voluntarily caused wrongful restraint to Z. Thus, A has committed robbery.

Robbery can be committed even after the theft is committed if in order to carrying away the property acquired after theft, death, hurt, or wrongful restraint or an instant fear of them is caused. The expression "for that end" implies that death, hurt, or wrongful restraint or an instant fear of them is caused directly to complete the act of theft or carrying away the property.

An extortion becomes a robbery when the following three conditions are satisfied -

- i. when a person commits extortion by putting another person in fear of instant death, hurt, or wrongful restraint, and
- ii. such a person induces the person put in such fear to deliver the property then and there
- iii. the offender is in the presence of the person put in such fear at the time of extortion.

DACOITY

As per section 391, a Robbery committed by five or more persons is dacoity.

Section 391 - When five or more persons conjointly commit or attempt to commit robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting, or aiding is said to commit dacoity.

Conjointly implies a collective effort to commit or attempting to commit the action. It is not necessary that all the persons must be at the same place but they should be united in their efforts with respect to the offence. Thus, persons who are aiding the offence are also counted and all are guilty of dacoity.

It is necessary that all the persons involved must have common intention to commit the robbery. Thus, dacoity is different from robbery only in the respect of number of people committing it and is treated separately because it is considered to be a more grave crime.

Differentiate Between Theft and Extortion

<i>THEFT (Section 378 PPC)</i>	<i>EXTORTION (SECTION 383 PPC)</i>
The property is taken by the offender without consent.	The property is delivered to the offender by consent although the consent is not free.
There is no element of threat.	There is element of threat of fear because of which the consent is given.
Only moveable property is subject to theft.	Any kind of property can be subjected to extortion.
Offender takes the property himself	Property is delivered to offender.

Differentiate Between Robbery and Dacoity

<i>ROBBERY (Section 390 PPC)</i>	<i>DACOITY (SECTION 391 PPC)</i>
Robbery may be committed on the immovable property only when it is in the form of extortion.	It maybe is committed on immovable property only when it is in the form of extortion.
It can be Committed by one or more persons.	To commit dacoity, there must be five or more offenders involved.
Force/compulsion may or may not be used.	Force/compulsion may or may not be used.
If robbery is committed in the form of the then there is no delivery of property by the victim.	Similarly, if dacoity is committed in the form of theft, then there is no delivery of property by the victim.