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NEW HEIGHTS OF WHITE COLLAR CRIMES UNDER TECHNOLOGICAL ADVANCEMENT IN INDIA

Law

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ABSTRACT

White Collar Crimes are a different category of crimes where crime is committed without bullets and guns but it causes great harm to society. These crimes are financially motivated non-violent crimes committed by professionals and businessmen.

Growth of technology and electronic media has opened the advanced ways to commit white collar crimes and made difficult for enforcement agencies to tackle them. However, in law abiding society people should understand their responsibility towards the society and avoid indulging in such practices So that a secure future for upcoming generations can be assured. However, it seems difficult as last few couple of years witnessed the greed of man to earn more and more money.

Introduction:

In this era of e-commerce and technological advancement white collar criminality has emerged as a challenge around the globe. India is a developing country and trapped under this menace. In order to develop e- commerce and technological advancement in India this menace has also emerged in advanced form. This time it emerged in most challenging form in comparison to previous forms. Country was already struggling to deal with it and now the advance form of this menace has created problems. India is a developing country and moving rapidly towards the scientific and technological advancement without having proper check and balance which opens the scope for the advance growth of white collar criminality. This menace has badly affected the safe use of cyberspace because of technological advancement. Banking, financial institutions including industry and various forms of e- business are easily targeted. This crime is such an act or omission that is forbidden under the law and a challenge for state to apply certain measures to control it.

According to Sutherland white collar crimes are committed by such persons who are of high respectability and enjoy high social status in course of their occupation. As we have seen that White collar crime investigating agency i.e. Serious Fraud Investigation Office (SFIO) summoned current and former top executives of Vijay Mallya's UB Group as part of its probe into possible fund diversions and inter-group fund transfers. The agency questioned several of them, including Mallya, who was in Mumbai at that time before he hurriedly boarded a flight to London and multiple sources familiar with this matter. The agency also summoned India's low-cost aviation pioneer and founder of Air Deccan Capt G R Gopinath. Mallya's now-defunct Kingfisher Airlines had acquired Air Deccan in an overnight deal in 2007.

Legislative Approach:

Indian government has enacted various legislations to regulate and control the white collar criminality in country. In this techno-friendly era some check and balance is required especially in cases of credit card fraud including bank and Insurance frauds. Indian Penal Code forbids such acts in effective manner and money laundering is also well tackled.

Apart from it in cases of banks including other financial institutions records are maintained. As we have seen in 2016, during demonization under the guidelines of Reserve bank of India banks have strictly focused on (KYC) Know Your Customer guidelines.

Cyber-crimes one the most seriously emerging computer related crimes and a great challenge before the country to tackle them. However, the newly enacted Information Technology Act, 2000 is somewhat effective to tackle them which promote the e-commerce and e-governance in country. For safe E- Commerce Information technology Act provide remedy both in civil and criminal forms according to the act or omission committed. Under Section 43, the legislation deals with civil remedies whereas under Section 65-75 it provides penal provisions for various offences.

Legislations like Companies Act, 2013, the Import and Exports (Control) Act, 1947 including the Foreign Exchange (Regulation) Act and Prevention of Money Laundering Act, 2002 have proved fruitful in concerned fields.

Judicial Approach:

Hon'ble Supreme Court in *Noormohmed Jamaibhai Latiwala* v. *State of Gujrat* [2004 (2) GLH 355] observed that unfortunately there is an alarming rise in white collar crimes in last few years which has affected the fibre of the economic structure of the country. It was accepted that there is nothing in these cases but private gain at the cost of public is involved which lead to economic disaster.

In the year 2016 hon'ble court observed in *Cbi* v. *M/S Jharkhan Ispat Pvt. Ltd* the coal block allocation scam case) that the anti -social activities of persons of the upper socio-economic strata of the society have attracted attention**.** The hon'ble Judge in the case observed that "White collar criminals have come to be defined as a person of the upper socio-economic class who violates the criminal law in the course of his occupational or professional activities. Further the hon'ble court states that such 'white collar crimes' are in fact more dangerous to the society than ordinary crimes firstly because the financial losses are much higher and secondly because of the damages inflicted on public morale".

In addition to this hon'ble court stated that the average loss from ordinary crimes such as burglaries or robberies such may run into a few thousand rupees, but the loss caused by white collar crimes may run not only in lakhs but in carores. It is quite difficult to find out the criminality regarding this menace as these acts are committed after much deliberation and planning.

Under white collar crimes the criminal behaviour includes a high class of industrialists, business tycoons, traders, entrepreneurs including politicians and bureaucrats.

However, the way judiciary successfully tackled the Satyam scam one of the biggest scams of the country point out that Indian judiciary is well equipped to handle the smart white collar criminals.

Reasons behind White Collar Crimes:

Commonly white collar crimes are outcome of financial instability and greediness. Sometimes situational pressure is also a reason behind these crimes. Apart from it there are various reasons behind it like:

1. The people committing these crimes are financially strong but it is greed that indulges them in these crimes.
2. Uncontrolled technological development including political pressure opens the scope for intellectuals to fulfil their greed.
3. Sometimes these occupational criminals belong to same category of policy makers and law implementers.
4. Necessity is another aspect that motivates people to commit white

collar crimes to fulfil the need of their family.

Apart from the above reasons various other factors can also be responsible for emergence of white collar crimes. One of the main reasons behind the rapid increase of white collar crimes in present scenario is the rapid growth in economy and fast industrial development.

The Santhanam committee report focused on the persons of high respectability responsible for committing the white collar crimes. Commission made the classification of socio-economic offences and white collar crimes in different categories. The commission was also of the opinion to bring an amendment in Indian Penal Code to insert a new chapter for white collar crimes. The Government forwarded the matter to Law Commission of India for further considerations. However, Law Commission was of the opinion to leave these offences for special and self -contained enactments to supplement the basic criminal law. In Dalmia group of Companies case 1963, the Vivin Bose Commission of inquiry focused that how industrialists indulge themselves in white collar crimes. Justice, M.C. Chagla observations in Mundra scam are one of the examples in this respect.

Types of White Collar Crimes: There are various types of white collar crimes in techno-advance society. Some of them are as follows:
Tax Evasion: It is one the most common practice of white collar crimes. Business tycoons and other rich personalities always try to escape from taxation liabilities. Professionals like doctors, engineers, lawyers, traders including contractors are generally indulge in it because it is difficult to know the exact income of these professionals.

Computer Frauds: These are crimes where hackers steal the computer information like bank data, proprietary information and credit card information.

Credit Card Fraud: Technological advancement made it easy to steal the credit card information of someone else and an unauthorised person can avail the facilities of the same card illegally.
Bank Frauds: White collar criminals try to defraud the bank funds and they involve such practices to defraud the bank funds.

Educational Institutions: These are also the places where white collar crimes are nurturing at a great deal. The educational institutions are able to secure the huge amount of money obtained through government grants and financial aids however; institutions pay a small amount of salaries to the employees in place of what the promise is made to them at the time of their appointments. Students are charged to pay high fees and in return below standard facilities are provided to them.

Cellular Phone Frauds: It is indicating towards the unauthorised use, tampering and manipulation of cellular phone services. These practices are performed with the help of stolen phone or where the performer performs under false identification or a clone is prepared with the help of valid electronic serial number through an electronic serial number reader and reprograms the another cellular phone with the help of a valid electronic serial number.

Rackets: Rackets are type of business operations run illegally to obtain the personal benefits.

Legal Profession: This profession is also among the professions where it becomes difficult to identify the real source of exact income of legal professionals. There are various instances like fabricating false evidence, involving professional witnesses, violation of ethical standards of the legal profession and using tactics to receive favour by the ministry as well pointing towards practices of white collar crimes in legal profession.

Medical Profession: Large numbers of white collars crimes are in practice in this profession in the name of faith they are cheating with the lives of people.

Suggestions to Control:
Although it seems very difficult to make a society free from white collars crimes however, it does not mean to leave the society suffer on cost of white collar crimes. This growing menace can only be controlled only if the people start to detest such crimes strongly. Certain measures can be applied to control these crimes like:

1. Attempt to make the public aware about the crimes committed by media or press including other audio-visual programme.
2. Legal literacy programmes can be arranged for public.
3. Specials Tribunal should be constituted to deal with white collar crimes where tribunals should be empowered to punish the offenders for at least five years and impose heavy fine.
4. Speedy disposal of such crimes can also play a vital role in reducing such crimes as we know "Justice delayed is justice denied".
5. The Central Vigilant Commission should be made well equipped to make it more vigilant.

Conclusion:
With the help of the above study it is clear that scientific and technological development has widened the scope for new forms of white collar crimes and the dimensions of such crimes are so wide beyond the control of Indian legal system. According to the changing socio-economic conditions of the country available penal provision under Indian Penal code should be amended to enhance the punishment, although the Indian Judiciary is tackling the menace by all the possible means.

However, the solution in real sense is awareness of people regarding the welfare of society because we the people are the advocates of a safer society for the future generations and we the people are indulge in white collar criminality as well no one from out -side world is responsible for it.

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