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Understanding Embezzlement: A Troublesome White Collar Crime

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ABSTRACT

Crimes have a huge impact on our society, whether mental or physical. When the word 'crime' comes to our mind, most of us picture brutality and violence. We tend to forget that non-violent crimes could be as menacing as the violent ones. Since violent crimes are easier to detect, the criminal minds of some people have found an easy way of looting people and obtaining money through a non-violent crime called embezzlement. Over time, the crime rate in our society is soaring and expanding rapidly. Not only is the number of crimes increasing day by day but also the degree and magnitude of heinousness in these crimes has been aggravating. But as per crimes are concerned, not all crimes are heinous, brutal and violent. Some of them are non-violent but still have a huge impact on our society. This article emphasises how embezzlement, the most vicious category of white-collar crimes which happens quite frequently around our society, has some serious implications and why the common man needs to be aware of this huge legal problem around the world.

Keywords: Embezzlement, fraud, crime.

I. INTRODUCTION

White-collar Crimes are non-violent and less brutal crimes and are committed by people who are prominent and have a high profile. These crimes are more prevalent in the upper class. These may not be extreme and brutal as other crimes such as murder, rape etc but their occurrence creates social and economic problems for people in our society. Although not similar to crimes which are committed in our day-to-day lives, for the proper functioning of our society it is required for us to be able to control the commission of white-collar crimes. White-collar crimes comprise bank fraud, blackmailing, counterfeiting, embezzlement, corruption, bribery, healthcare fraud, insider trading, credit-card fraud etc.

The definition of white-collar crime was provided for the first time by sociologist Edwin Sutherland in 1939.² Edwin Sutherland defined White Collar Crime as:

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² Pranav Kaushal, *White-Collar Crimes And Contribution Of Professor Sutherland In The Development Of The White-Collar Crimes*, LEGAL SERVICES INDIA (Jan. 10, 2024, 10:05 AM), <https://www.legalservicesindia.com/legal/article-7541-white-collar-crimes-and-contribution-of-professor-sutherland-in-the-development-of-the-white-collar-crimes.html>

Crime which is committed by a person who is having high social status and also having respectability which is acquired by him in the course of his occupation.³

White-collar Crimes are different from those crimes which are committed in our day-to-day lives. Because of the fact that there is very little possibility to be captured in a white-collar crime people of high society easily get away after doing it. These high-profile persons can easily escape liability due to the lower probability of them getting caught. Thus, in order to eradicate and reduce the magnitude of white-collar crimes, it is necessary that we must implement stricter laws and penalties to control them.

White-collar crimes are prevalent throughout the world. Different countries have different ways of controlling white-collar crimes in their respective countries. Punishment for embezzlement differs from country to country. In the US, the penalties for white-collar crimes are much harsher and stricter in comparison to those of India. Huge amounts of fines and other penalties re imposed on the culprits of white-collar crimes in the US. The FBI is using different tactics and skills to detect white-collar crimes and to track down the culprits. Thus, we can realize that there is a dire need to formulate stricter laws in India in order to eradicate it because it has become a major legal problem not only in India but also worldwide.

(A) What is embezzlement?

Embezzlement is a category of white-collar crime that involves the occurrence of financial fraud. It is an intentional misuse, confiscation, procurement or conversion of assets or funds by a person to whom the assets or funds were entrusted.

This can be understood with a simple example. Supposedly, A is an employee in an electronics store. He transfers some cash from the store's account to his account. Although this example is on a minor scale, this is also a clear example of embezzlement, A being the embezzler in this case.

This was just a small example of embezzlement, but there are a large number of cases where embezzlement occurs on a larger scale where a huge number of funds are stolen, misappropriated or transferred by certain employees of companies into their personal accounts. Therefore, from this we can ascertain that embezzlement can occur on both a smaller and larger scale, however, the ones committed on a larger scale are more vicious and dangerous.

³ Pranav Kaushal, *White-Collar Crimes And Contribution Of Professor Sutherland In The Development Of The White-Collar Crimes*, LEGAL SERVICES INDIA (Jan. 10, 2024, 10:05 AM), <https://www.legalserviceindia.com/legal/article-7541-white-collar-crimes-and-contribution-of-professor-sutherland-in-the-development-of-the-white-collar-crimes.html>

Ways in which embezzlement can be done:

- Ponzi scheme- It is a kind of scheme where investors are fraudulently lured to invest in a company and are promised high profits and returns but in reality, no investment is made and the payment to the earlier investors is made from funds collected from new investors.
- When an employee uses or steals the raw materials and equipment of the company to start his own business.⁴
- When an employee provides the private and inside information of the company to the opponent companies.⁵
- Overbilling the customers by some employees and keeping the extra cash for themselves.

II. NEGATIVE EFFECTS OF EMBEZZLEMENT AND HOW IT IS A MAJOR PROBLEM

Following are a few prime reasons why embezzlement is a problem for the economy:

- Embezzlement prevents a company from reaching its financial goal and hinders in generating profit.⁶
- It is very difficult to be detected as many people are involved in the business.
- Since it is hard to discover where such a crime has happened, the company or the organisation might always remain unaware regarding the occurrence of it, thus resulting in failure to reimburse such a loss.
- Embezzlement hampers the businesses which contribute heavily to the economy of our country. Thus, embezzlement indirectly has a negative impact on the economy.
- Employees might get caught while performing illicit acts of embezzlement during the course of their business. This causes employers to lose trust in the employees.
- The conflict between employers and employees due to trust issues may spoil the harmony of the workplace environment.

⁴ Annie Pilon, *25 Workplace Theft and Embezzlement Examples*, SMALL BUSINESS TRENDS (Jan. 10, 2024, 11:45 AM) <https://smallbiztrends.com/2023/08/embezzlement-examples.html>

⁵ Annie Pilon, *25 Workplace Theft and Embezzlement Examples*, SMALL BUSINESS TRENDS (Jan. 10, 2024, 11:45 AM) <https://smallbiztrends.com/2023/08/embezzlement-examples.html>

⁶ Linda Ray, *How Does Embezzlement Affect Businesses?* CHRON (Jan. 12, 2024, 11:10 AM) <https://smallbusiness.chron.com/embezzlement-affect-businesses-60032.html>

III. MEASURES TO PREVENT EMBEZZLEMENT

- Instalment of cameras and regular monitoring of the activities of employees.
- Introducing biometric cash boxes that require the fingerprint of the person in charge to open the cash box. This can help prevent the access of cash to any of the employees and reduce the chance of theft.⁷
- Conducting background checks before hiring a full-time employee.⁸
- Conducting occasional audits and maintaining a financial report. This includes monitoring each and every transaction, all losses and gains. In the case of a restaurant, shop or retail store the company should conduct regular checks on the amount earned as any employee might steal funds or cash from the account of the company.⁹

(A) The Bernie Madoff Ponzi Scheme case

Bernie Madoff's crime vandalized the USA's economy completely. Madoff owned a firm called Bernard L. Madoff Investment Securities LLC. He was operating a huge Ponzi scheme. He used to take money from investors and promised them to invest it in the stock market so that they would receive profits. But instead of investing the money in the stock market, Madoff used to take money from the new investors and give them to the old investors. The old investors were quite satisfied with Madoff's work but little did they know that in reality there was no investment being made. Madoff used to befriend more wealthy people in order to lure those people into investing in his fraudulent scheme 2009, Madoff was forced to forfeit \$170 billion and received a 150-year prison sentence. The U.S. Marshals put his four boats and three houses up for auction.¹⁰

(B) Is punishment for embezzlement in India inadequate?

Embezzlement per se has not been specified as an offence under the Indian Penal Code. But embezzlement counts in theft, dishonest misappropriation of assets and criminal breach of trust and all of them are offences prescribed under the Indian Penal Code.

Although respective punishments are prescribed for the aforesaid offences under the Indian

⁷ 12 ways to prevent embezzlement, OPTOMETRY TIMES (Jan. 12, 2024, 12:50 AM) <https://www.optometrytimes.com/view/12-ways-prevent-embezzlement>

⁸ How to protect your business against embezzlement, EMBROKER (Jan. 12, 2024, 1:10 AM) <https://www.embroker.com/blog/embezzlement/>

⁹ Valerie Silvani, Accounting data security: 9 tips to prevent embezzlement, GO GRAVITY BLOG, (Jan. 14, 2024, 11:17 PM) <https://www.gogravity.com/blog/9-tips-to-prevent-embezzlement-at-your-company>

¹⁰ Les Christie, Madoff's goodies: Going, going, gone, CNN Money, (Jan. 14, 2024, 11: 44 PM) https://money.cnn.com/2009/11/12/real_estate/merchandise_from_Madoff/index.htm

Penal Code which is the principal criminal code in India, they are not sufficient to curb the increasing cases of embezzlement. Other countries like the USA and UK have stricter laws in comparison to India when it comes to embezzlement. Thus it can be clearly deduced that India is required to imbibe embezzlement as a separate offence and include the required stringent penalty for it.

Any individual committing embezzlement in the USA can be punished for up to a period of 10 years and a fine that is equivalent to the market price of the property so embezzled.

Even after imposing such strict punishments, embezzlement has still been a major threat to the American economy. So, this means that India with these lenient laws can never compete with the shrewd embezzlers.

IV. CONCLUSION

Embezzlement is not only confined to being a financial crime. It's a socio-economic crime. It has a huge impact on society and breaks the trust of the public. The stability of the economy is affected and people lose their trust in different institutions. They develop a fear of getting scammed or cheated which creates an unstable economy. Cybercrimes, money laundering, embezzlement etc., all these crimes are socio-economic. Edwin Sutherland was the first to define and identify white-collar crimes properly. He helped us to distinguish white-collar crimes from common crimes.

In my opinion, embezzlement is a mixture of fraud and theft. With time, the embezzlement cases have risen much higher in comparison to what they are now. Therefore, in India, we need stricter laws, heavy fines and implementing a longer term of imprisonment for the prevention of such crimes. Also, white-collar crimes are still not properly defined or given attention in Indian laws. Thus, it is important for us to know about these crimes and create awareness regarding them so that we remain safe and secure in a world prone to fraud and cheating.
