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LEGAL ASPECTS OF WHITE-COLLAR CRIME IN INDIA

~ *Agrima Tiwari*

Abstract

White collar crime refers to non-violent, financially motivated crimes committed for personal gains, they can be committed by individuals, companies and even whole governments. White collar crime ranges from more familiar practices like tax fraud to embezzlement and even large-scale money laundering. In India a widening gap in financial awareness and knowledge is observed in different economic classes alongside with the growing greed and power of people in financially superior positions, who exploit the system and illegally gain from their activities. This paper aims to analyze the nature and prevalence of white-collar crime in India and the legal consequences for such crimes. This paper also contains case law analysis of major instances white-collar crimes in India as well as in depth analysis of laws and statutes preventing and punishing such activities.

Introduction

Sutherlands theory

In 1939, professor Edward Hardin Sutherland coined the term ‘white collar crime’ Sutherland offered a formal definition of white-collar crimes as “a crime committed by a person of high social status and respectability in the course of his occupation.”¹ Sutherlands theory was very impactful as he aimed to shed light on criminal activities committed by high class society while most peoples perception of crime was related to poorer and lower-class economies. Sutherland wanted to portray the damaging effect of white-collar crime and for it to be punished as seriously as any other criminal offense.

¹ Sanjay Sarraf, *Analysis of Edwin Sutherland's Definition of White-Collar Crime*, SSA.LAWYER (May 5, 2021), <https://ssa.lawyer/wp-content/uploads/2021/09/Analysis-of-Edwin-Sutherland-definition.pdf>.

White collar crime in India

India has witnessed several major cases of high-profile economic scandals, many of which occurred during the period of liberalization and globalization. Such cases highlight the loopholes that emerge within an expanding and exploratory economy, and become evidence of the effect of lack of legislations and governance. These cases have helped India develop many laws and statutes to combat and punish white collar crime. The companies act, Bharatiya Nyaya Sanhita (previously Indian penal code), prevention of money laundering act, prevention of corruption act, IT Act, fugitive economic offenders act

Common Types of White-collar Crime in India

1) Corporate fraud

Corporate fraud consists of illegal or unethical and deceptive actions committed either by a company or an individual acting in their capacity as an employee of the company.² Corporate fraud is complicated and often extremely hard to catch or verify since its committed by people with expertise, corporate fraud when committed on a large scale by a firm or a corporation can affect million of clients, investors, creditors and even other businesses.

Corporate fraud can occur for many reasons such as greed but more often than not it is committed out of pressure of competition faced by a company, fraud might be committed in order to make the company seem like its in a better position than it actually is. A company's financial records are crucial evidence of their financial conduct, but this information is often manipulated over the years and can take very long to untangle. The Satyam computers scam of 2009 is a prime example of corporate fraud, Satyam computers was the fourth largest company in India at one point of time but in 2009 Mr. Ramalinga Raju chairman and founder of Satyam was arrested and confessed to o a \$1.47 billion (or Rs. 7800 crore) fraud, admitted that he had made up profits for years. According to reports, Raju and his brother, B. Rama Raju, who was the Managing Director, "hid the deception from the company's board, senior managers, and auditors". The case of Satyam's accounting fraud has been dubbed as "India's Enron".³

² CFI Team, *Corporate Fraud – Overview, Reasons, and Examples*, CORP. FIN. INST. (May 5, 2021), <https://corporatfinanceinstitute.com/resources/esg/corporate-fraud/>.

³ Sanjay Sarraf, *Corporate Fraud: Concept, Types & Prevention*, SSRN (July 10, 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3370291.

2) Insider Trading

Insider trading is the trading of a company's securities by individuals with access to confidential or material non-public information about the company.⁴ The law doesn't explicitly forbid insider trading but it is forbidden if the trades are done using price sensitive information not available to the public. A person related to a certain institution, who has access to information that could potentially affect the price of securities of the company can misuse the information and attain massive gains.

In the case of Hindustan lever limited vs SEBI, SEBI accused HLL of using unpublished price sensitive information (UPI) to buy 8 lakh shares of Brooke Bond Lipton India Ltd. (BBLIL)⁵ both companies were subsidiaries of Unilever and their merger was announced in 1996, but due to the rise of allegations in the market of leaked information and insider trading, SEBI decided to investigate.

Sebi found that HLL had already bought 8 lakh shares of BBLIL before the merger was even announced and their suspicions of insider trading were confirmed.

3) Money Laundering

According to PMLA 2002, Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering.⁶ In simple words, money laundering involves concealing the illegal origins of money and converting it to 'clean' sources to avoid prosecution and confiscation. The case of Vijay Mallya and kingfisher is one such example. Mallya currently owes about 9000 crore rupees to Indian banks, he obtained these loans from banks under the guise of 'operational expenses' but the enforcement directorate found that he siphoned off this money to off shore accounts and shell companies which were laundering the money.

Mallya has currently been declared a fugitive after fleeing India but the public outcry from the case led to stronger monitoring of high values loans taken from banks.

⁴ *Insider Trading*, LII WEX (Feb. 2022), https://www.law.cornell.edu/wex/insider_trading.

⁵ **Press Release, Securities & Exch. Bd. of India, Action Against Hindustan Lever Limited (Mar. 4, 1998)**, https://www.sebi.gov.in/media/press-releases/mar-1998/action-against-hindustan-lever-limited_18764.html.

⁶ Prevention of Money Laundering Act, 2002, § 3, No. 15, Acts of Parliament, 2003 (India)

4) Tax Evasion

Tax Evasion is the unlawful practice of deliberately not paying taxes that one owes and is obligated to pay the government⁷ tax evaders conceal their true sources of income through unlawful means or simply don't file their tax returns for the financial year. Tax evasion is considered to be a serious crime but is unfortunately very common place in India. Many cash evaders operate solely in cash as Cash incomes and expenditures are harder to track than digital ones, evaders also go as far as providing incorrect PAN information to the government which is illegal.

Major cases of tax evasion include the recent Adani- Hindenburg issue, Hindenburg, a US Based research firm accused Adani enterprises of tax evasion using off shore entities, they also accused them off manipulating stock prices and concealing income. While the case is still ongoing, it sparked global scrutiny on corporate taxation and transparency.

Legal Framework Governing White-Collar Crime in India

1) Bharatiya Nyaya Sanhita 2023 (formerly Indian penal code,1860)

Many landmark cases pertaining to financial crimes have been tried under the Indian Penal Code of 1860 but in 2023 IPC was replaced by the BNS, which includes stricter sections on organized crime and financial crimes.

Section 340(2) of BNS says 'Whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record'.⁸ This section criminalizes the use of forged documents. Section 336 of BNS⁹ says that, any person found to be forging physical or electronic documents for the purpose of cheating or committing fraud can be imprisoned for a period up to 7 year and a fine.

⁷ *Understanding Tax Evasion and Penalties in India*, TATA AIG, <https://www.tataaig.com/health-insurance/tax-evasion-and-penalties-in-india>.

⁸ Bharatiya Nyaya Sanhita, 2023, § 340(2), No. 45, Acts of Parliament, 2023 (India)

⁹ Bharatiya Nyaya Sanhita, 2023, § 340(2), No. 45, Acts of Parliament, 2023 (India)

Section 319 of BNS¹⁰ deals with “cheat by personation”, a person impersonating another for the purpose of cheating, committing fraud etc. can be imprisoned for a period of 5 years along with a fine.

2) Prevention of money laundering act, 2002

The PMLA Act was enacted in 2002 for stricter monitoring and confiscation of illegal funds and their laundering and misappropriation, section 3¹¹ of the act defines the act of money laundering and extends it to concealment, possession, acquisition, use, projecting and claiming proceeds of crime. Section 4¹² lays out the punishment which may be imprisonment not less than 3 years, extending to 7 years and a fine. Section 17¹³ of the act gives the enforcement directorate (ED) the power to search as well as seize assets or documents of any person if they have reason to believe that the said person is involved in practices of money laundering or currently has in his possession any laundered property.

3) Companies Act, 2013

The companies act was initially introduced in 1956 and later replaced by the companies act of 2013, the companies act is crucial for the administration and governance of the corporate sector and holds important sections pertaining to white collar crime. Section 447¹⁴ of the act defines and penalizes fraud involving companies, any person found liable can be given imprisonment extending to a period of 10 years and a fine up to three times the amount of the fraud. Section 448¹⁵ and 449¹⁶ defines the punishment for providing false statements and false evidence by any person required to submit such documents or provide information. Providing false financial documents, prospectus, statements as well as false affidavits can be punished by imprisonment of up to 7 years and a fine that can extend to 10 lakh rupees.

¹⁰ Bharatiya Nyaya Sanhita, § 319 (India, 2023).

¹¹ Prevention of Money Laundering Act, § 3 (India, 2002)

¹² Prevention of Money Laundering Act, § 4 (India, 2002)

¹³ Prevention of Money Laundering Act, § 17 (India, 2002)

¹⁴ Companies Act, § 447 (India, 2013)

¹⁵ Companies Act, § 448 (India, 2013)

¹⁶ Companies Act, § 449 (India, 2013)

Under section 451¹⁷ Any officer or company found to be repeatedly defaulting in its conduct within a period of 3 years according to the companies act will be fined twice the amount of such offence.

Section 134¹⁸ requires the approval of the board of directors of a company on all financial statements before they are signed off by the chairperson of the company. This ensures responsibility for financial records by the directors.

4) The fugitive economic offenders act, 2018

The FEO act deals with economic offenders who have invaded the Indian legal system by fleeing the country and remaining in another, the FEO is important for the prosecution of high value offenders involved in money laundering, tax evasion and fraud

Section 2(f)¹⁹ defines a fugitive offender as ‘any individual against whom a warrant for arrest in relation to a Scheduled Offence has been issued by any Court in India, who— (i) has left India so as to avoid criminal prosecution; or (ii) being abroad, refuses to return to India to face criminal prosecution’

Section 4²⁰ of the act directs the ED to file an application to the special court to declare a person they believe to be a fugitive economic offender based on the material they have. Section 5²¹ of the act enables the ED on the permission of the special court to seize any property in the offenders name, including benami property.

Landmark Cases

1) CBI Vs. B. Ramalinga Raju (2015) – the Satyam scam

Satyam Computer Services Limited was one of the largest IT companies in India at one point, it was successful with both global and domestic customers and was also ranked among the top companies in Asia in 2008.

¹⁷ Companies Act, § 451 (India, 2013)

¹⁸ Companies Act, § 134 (India, 2013)

¹⁹ Fugitive Economic Offenders Act, § 2(f) (India, 2018)

²⁰ Fugitive Economic Offenders Act, § 4 (India, 2018)

²¹ Fugitive Economic Offenders Act, § 5 (India, 2018)

In 2009 many truths of the company came to light, the CEO Mr Raju upon his arrest confessed to a fraud of 1.47 billion dollars (7800 crores) he admitted to making up profits for years, and also admitted that he and his brother B. Rama had been hiding this information from the board , auditors and managers.

Mr Raju had overstated the company's balance sheet by atleast 1.4 billion dollars in bank loans and cash that never existed²² he also underreported liabilities on the balance sheet and overstated income almost every quarter.

More than 6000 fake salary accounts were opened over the years to appropriate the money deposited by the company. Employees, clients and shareholders all suffered because of this long-standing fraud by satyam. Employees did not receive salaries for extended periods of time, many were laid off and stranded. Satyam lost many major clients that they had contracts with such as the world bank, shareholders lost massive amounts in investments as the company's value tanked. Furthermore, the Indian government suffered a loss of reputation and trust worldwide. The CBI had suspected illegal activities on part of Satyam since 1999 but Satyam's reputation allowed it to carry on its deception, until 2009 when the marginal gap between the inflation of records and actual income increased too much to hide.in 2009 quarterly revenues were inflated by 75%, while operating profits were inflated by 97 percent.²³

Eventually Ramalinga Raju and his brother B Rama Raju was sentenced to 7 years of rigorous imprisonment with a fine of 5.5 crores. The former CFO was also fined and imprisoned under the companies act.

2) Vijay Mallya vs Enforcement directorate (2016- present)

Vijay Mallya founder and past owner of kingfisher airlines as well as a former member of parliament is involved in one of the biggest cases of white-collar crime in India's history. Between 2004 to 2012 Mallya secured loans from multiple Indian banks such as IDBI, state bank of India and Punjab national bank on claims of operational expenses, but in 2012 kingfisher airlines ceased its operations due to financial restraints.

²² ²² Sanjay Sarraf, *Corporate Fraud: Concept, Types & Prevention*, SSRN (July 10, 2019),

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3370291

²³ *Satyam Scandal*, Mohanlal Sukhadia University, https://mlsu.ac.in/econtents/5678_Satyam.pdf

Mallya was declared a 'willful defaulter' by many banks, the ed also found him guilty of money laundering under the PMLA act of 2002. He was also accused of FEMA violations due to unapproved fund transfers in foreign currencies.

Mallya fled India in 2016 and reached the UK. In 2019 Mallya was declared a fugitive economic offender under the FEO act. The Indian government is currently making efforts to extradite Mallya from the UK. In April 2025 Mallya lost his appeal against a bankruptcy order issued by London's High Court. The order pertains to a substantial debt exceeding £1 billion (\$1.28 billion) owed to lenders, including the State Bank of India.²⁴ Mallya's case marks the first successful invocation of the fugitive economic offenders act.

3) Hindustan Lever Limited vs SEBI

Hindustan lever limited was found to have purchased 8 lakh shares of Brooke Bond Lipton India (BBLIL) just two weeks prior to the announcement of the merger between HLL and BBLIL upon investigation by SEBI HLL was found to be an 'insider' as per section 2(e) of the prohibition of insider trading regulations, 1992²⁵. An insider is a person considered to be connected to a company and have access to undisclosed price sensitive information in respect to the securities of the company. HLL and BBLIL were subsidiaries of Unilever, having been under the same management, HLL and its managers were covered under the definition of insider²⁶

An appeal was filed by HLL against SEBI before the securities appellate authority, HLL argued that that information of the merger of two companies who are healthy and profit-making is not necessarily price sensitive information but eventually the appellate authority agreed with SEBI's definition of sensitive information which was amended in 2002

"unpublished" means information which is not published by the company or its agents and is not specific in nature.

²⁴ *Setback to Kingfisher Airlines: Vijay Mallya loses UK appeal in £1 billion debt to Indian banks case*, Mint (Apr. 9, 2025)

²⁵ Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, § 2(e) (India).

²⁶ Ankoosh Mehta & CAM Disputes Team, *Insider Trading: Hindustan Lever Limited v. SEBI*, India Corp. L. Blog (Oct. 25, 2017), <https://corporate.cyrilamarchandblogs.com/2017/10/insider-trading-hindustan-lever-limited-v-sebi/>

Explanation.—Speculative reports in print or electronic media shall not be considered as published information.”

In addition SEBI also introduced section 2(ha) which includes information relating to mergers, takeovers and amalgamations as price sensitive information.²⁷

In 2015 ‘generally available information’ was finally defined as *information that is accessible to the public on a non-discriminatory basis*. However, this definition of non-discriminatory access is also undefined and open ended. This case serves as an important origin point of the dispute over the meaning of unpublished, price sensitive information.

Conclusion

India’s history of white-collar crimes have brought awareness to the serious threats financial crimes pose to the country’s economy, integrity and investor confidence.

The complexity of white-collar crimes has revealed how corporates use loopholes in legislation and regulations to their advantage and commit tax fraud, corporate fraud, insider trading and general misappropriation. Cases such as Vijay Mallya’s have exposed systematic weaknesses in corporate law enforcement. The cases discussed in this paper demonstrate the widespread abuse of trust by those in positions of power and financial dominance, while India has definitely come a long way in terms of white-collar crime deterrent legislation such as the prevention of corruption act, prevention of money laundering act and the companies act, enforcement of the same suffers from delays due to lack of coordination and slow-moving procedural elements.

However, recent developments such as the fugitive economic offenders act has strengthened the regulatory oversight of bodies like SEBI and represents accountability on part of the Indian government to enact improved legislation to curb financial fraud and prosecute those who attempt to flee the

²⁷ Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, § 2(ha) (India)

repercussions. The legal system has also embraced forensic accounting and financial intelligence as essential tools to prosecute white collar crime.

There is still a pressing need for reforms to ensure corporate compliance in India, this includes better protection for whistleblowers, corporate ethics training and increased judicial expertise to handle cases of complex financial fraud. The integrity of India's economy and market depends on the consistent enforcement of these laws along with cooperation of both government and private bodies. In conclusion, India has made some considerable strides in combating white-collar crime, but the journey to ensure financial accountability from corporates and deter deviance is an ongoing one, a strong financial eco system can only stand with consistent legal action as well as institutional commitment to ethics, and integrity.