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INDIA'S WHITE-COLLAR CRIME: A CRITICAL ANALYSIS

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ABSTRACT

White collar crimes, when related to other modes of crimes, are much more likely to target corporations rather than individual people, as they involve a higher number of perpetrators, have quite a longer time, and follow a well-defined pattern. After so many economic and financial scandals, people were of the belief that scandals of such a nature were unlikely to hit the country or the market once again. But contrary to such expectations, the situation has been different. The scandals and scams have constantly mushroomed, one after the other with a consecutive increase in the magnitude. Hence, it became imperative to legislate the concept of fraud in Companies Act, 2013 to bring to justice anyone participating in the company's corporate dealings who seeks to deceive, take unfair advantage of, or harm someone's interests. This is based on the philosophy that extreme greed seldom leaves a person as a human because it requires dire ramifications with the mindset of advancing the personal interest of self, by crushing the interest of others. This paper tries to comprehend the structure, reasons and developing a coping mechanism to deal with such frauds & how the frauds are committed at all the respective levels of the management i.e., ranging from top level management to the platform area of workers. This paper also suggests the ways in which these frauds can be apprehended beforehand and can be prevented to a voluminous extent. These white-collar crimes are on a high rise in the Indian corporate sector and it needs immediate check and balances before it's too late, otherwise the situation might go haywire.

Keywords: White Collar fraud, corporate fraud, money laundry, company scandal, scam

INTRODUCTION

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Interestingly, the Indian Penal Code, 1860, doesn't really explain fraud; it only covers cheating. Surprisingly, Part 420, that has been associated with fraud, wasn't even the main section concerned with the subject. In reality, Section 415 of the Criminal Code defines cheating as whoever deludes another into delivering property or doing or not doing anything that they'd never do if they had been not tricked. White collar crimes would be those performed by respectable people in high-ranking employment in the public or commercial sector. Such crimes are hard to trace. The "Federal Bureau of Investigation" defines it as illegal conduct accompanied by deception, forgery, or breach of confidence. The phrase "white collar crime" was invented by Edward Sutherland in a lecture to the American Sociologist Society in 1939. White collar crimes are designed in such a way that the harm or damage they produce is so widely disseminated across culture that their significance in terms of individual victims is essentially minor. Nowadays, the emphasis of "white collar crime" has shifted from the employee to the institution, with private citizens doing criminal activities individually or in partnership with others. Corporate Scandals is another one of those white-collar crimes. With the expansion of trade and new tech, corporate crime has now become a worldwide problem. India, just like every other nation, is afflicted with corporate malfeasance. The fast-growing economy and rapid industrialization of this emerging country are to blame for the massive surge in corporate scams in the past few decades.

After the significant reforms prompted by the Satyam Scam, that exposed a failure of supervision by the company's board of directors, especially autonomous directors, revisions were made to the Companies Act, 2013. The scandal exposed the failure of a legitimate company of auditors, Price Water house Coopers, to uncover the crime until the company's president, Ramalingam Raju, exposed the accounting fraud and subsequent defrauding towards the extent of Rs. 8000 crores.

As a result, the Companies Act of 2013, for the very first occasion, defined fraud in connection to the operations of a business or corporate entity. A quick read of Section 447 reveals that the fundamental elements of a fraud have become: I the aim to deceive, ii) the desire to acquire an unfair advantage, and iii) the desire to harm someone's interests. There is also no fraud when there is no mala fide intent. The term "any individual" is used in the provision. As a result, it's feasible that the conduct could be committed by anyone other than the chairman or any official and yet be covered by Section 447. Identifying who can conduct fraud and what their motivations might be might aid in the implementation of effective preventative strategies.

This can comprise senior executives, directors, staff, auditors, and outside consultants. The firm, on the other hand, should be viewed as extremely vulnerable to the repercussions of their conduct. There are numerous motives that differ through one individual to the next. Greed, the desire to cast the firm into contempt as a result of being fired, and the purpose to break the law are among the motives. The Robinhood Swindlers are another moniker for people who actually assume they are simply restoring social balance by robbing the wealthy and benefiting the less affluent. The Serious Fraud Investigation Office (SFIO) as well as its capabilities were further emphasized in the Companies Act of 2013. With so much tight controls over corporations and their board and audit reporting responsibilities, it was thought that the majority of corporate scams would decrease.³

The recent series of corporate scandals undertaken by Kingfisher's Vijay Mallya, Mehul Choksi, Amrapali Builders, Nirav Modi, Bhusan Steels, Fortis Healthcare, Unitech, and others have demonstrated this to be incorrect. It should be emphasized that where the penalty for fraud would be both confinement and a fine, it is described as a non-violation. As a result, it is believed that almost all of the firm's top-level officials should take a tough stance in order to prevent the incidence of fraud. Deliberately misleading an individual investor or a stakeholder also is regarded as fraud, so management standards should be stern and severe on those who are considered to be the offenders of such an act.

Section 67 of the IPC⁴ deals with imprisonment for inability to pay a fine where the offense is solely punished by a fine. The CBI has discovered a record of 6,533 corruption cases within last 10 years, including 517 cases during last 2 years, as the demographics of white-collar crime in India evolve.

BRIEF HISTORY

The Carrier case was the very first white criminal proceeding in England, recorded in 1473. In this scenario, the agent was saddled with the accountability of delivering wool through one location to another on behalf of the owner. Part of the wool was stolen by the agent, who was tried and convicted.

³ Umakanth Varottil, *The Price Waterhouse Case: Determining the Auditor Liability*, <https://www.bloomberquint.com/opinion/the-price-waterhouse-case-determining-auditor-liability>, March 18, 2022

⁴ Indian Penal Code, 1860

Following this case, the English court established the notion of 'breaking the bulk,' which implies that perhaps the Agent who was handed the item attempted to split it and misappropriated the materials.

The development of corporate capitalism, on the other hand, has elevated crime to a new level. From our selfishness and the anguish of having the opportunity to earn more, the organization of capitalism is bent on doing such atrocities. The Sherman Antitrust Legislation was enacted in 1890 in the U. S., legalizing for one individual to govern. The punishments for white criminals in the United Kingdom, as well as the admission of competitive or foreign infidelity statutes, have not been as severe as the Sherman Act.

A rising group of journalists stirred up controversies in the end 18th and 19th centuries. Congress seemed to be undertaking a determined attempt to strengthen the Sherman Act in 1914. In dealing with inconsistent and illegal practices, this Act has shown to be far more powerful than the Sherman Act.

“Edwin Sutherland, an American sociologist”, mentioned the crime of white collars for the first occasion in 1939. He defined it as a crime perpetrated by such a high-ranking, respectable individual who did so while being on work.⁵

TYPES OF WHITE-COLLAR CRIME

- 1. Blackmail** is defined by Section 503 of the Indian Penal Code, 1860, as initiating a claim for money or indeed any compensation by threatening physical harm or destruction to one's properties. For example, exposing a personal secret that the offender understands will bring the victim considerable embarrassment if exposed. For example, suppose A, the Executive Director of XYZ, is aware that B, a female worker of the said firm, is pregnant from someone other than her spouse. A requested B to conduct forgery here on account papers thus that he might pilfer 20 lakhs rupees from the firm without anyone noticing, otherwise he'd divulge her truth, causing her and her family considerable disgrace.
- 2. Money Laundering:** Money laundering is indeed a type of crime in which perpetrators conceal their true identities. Criminals strive to conceal the money's rightful owner as well as the location where it was acquired via unlawful methods in such crimes. Smuggling

⁵ Government of India, Report of the Commission on Prevention of Corruption (1964) Para 2.13, p 11

commodities is performed with the aim of getting money from legitimate sources. To put it another way, money fraud is the act of presenting stolen funds as legitimate money. For instance, if an individual collects funding from black markets, smuggling of that kind assets would be regarded 'dirty,' then he would not be able to collect them throughout banks because he would then have to produce account statements and records declaring where the funding came from in the first place, which may appear suspicious if he stockpiles cash straight into banking firms.

- 3. Cybercrime:** In India, cybercrime is a significant contributor to this sort of crime. It's a relatively new issue in the online world. Cybercrime is a type of crime that involves 'computer systems.' With the rapid advancement of technology, there has also been a quick rise in technology-related crimes. Specialists in computer-related fields are involved in cybercrime. They are also liable for anyone who suffers an indirectly or directly reputational harm or suffers physically or mentally as a result of the Web, networking, or other means. Cybercrime poses a threat to nations related to financial stability. Cybercrime has the potential to cause significant financial damage in the country. It is not only possible to lose money, but it is also possible to lose one's privacy. Privacy concerns may arise if sensitive information is revealed.
- 4. Tax Evasion:** Tax evasion is used to conceal the taxpayer's genuine income and position within the government. The purpose of this revenue camouflage is to minimize the government's tax liability. Succinctly summarized, it implies concealing unlawful money in order to decrease an individual's tax liabilities and appear to the tax authorities as having a smaller income. Tax evasion does have a detrimental influence on society since it affects honest taxpayers' confidence and might lead to widespread evading taxes and economic independence in the clutches of these few irresponsible people. “The Hon'ble Supreme Court supported the constitutionality of the Special Bearer Bonds Act,1981, in R.K. Garg v. Union of India” and also had clearly recognized that this Act was an efficient conformity with both the effective avoidance of Tax-Evasion statutes in India.
- 5. Banking Fraud:** Fraud and money laundering done with the intention of defrauding others and obtaining illegal advantage. Bank fraud is a financial crime. Fraudulent firms perpetrate this by fabricating applications. It's also linked to the theft of non-negotiable assets like bank cheques, securities, and deposit accounts. Because there is a lack of confidence among banks as well as the general people, bank fraud is a widespread concern. This is the most commonly

used type of business and white-collar crime. It is detrimental to both the community and the nation 's government.

6. **Bribery** is by far “the most prevalent type of white-collar crime”. Bribery is defined as the act of providing money or assets to someone else in a place of authority in exchange for doing good.

REASONS FOR WHITE COLLAR CRIMES

- **GREED:** Experts commit crimes by not recognizing the truth and the consequences of what might happen to their clients in general if they commit such heinous crimes against their minds, their breach of reasonable trust in them, their self-confidence, so a certain tone can tarnish and tarnish the beliefs of billions and millions of their clients.
- **LACK OF AWARENESS:** People after becoming victims of crime can better understand what kind of crime has been committed against them, and this can take a long time to understand about crime, and due to ignorance, it must be effectively addressed by the Indian Government by creating and conducting legal awareness campaigns for them.
- **NECESSITY:** The crimes that professionals are committing as white-collar crimes due to the grave, after the professionals have pursued a higher field of profession, need to nurture their family in a greater sense and hence they are white collar crimes in nature.

IN THE LEGAL PROFESSION: WHITE COLLAR CRIME

Lawyers conduct hidden crimes by fabricating evidence, presenting false witnesses in court, and extorting considerable amounts of financial gain from their customers. For a particular amount of money, legal experts lead to unethical actions and break all ethical principles with both the aid of governmental support.

When alluding with what the Supreme Court spoke about in “*Jacob Mathew v. State of Punjab*”⁶, the judge in “*D.K. Gandhi v. M. Mathias*”⁷ deferred the appeal but also left the subject to be resolved by the State Commission according to the rules.

In the matter of Jacob Mathews, the Supreme Court declared that in negligence legislation, experts from various professions such as legal, pharmaceutical, or architectural, or other, were

⁶ (2005) 6 SCC 1 (para 18)

⁷ 6th August, 2007

being held accountable for negligence in performing their occupation if one of the following two elements are achieved: a. He lacked the necessary skill to be avowed, and b. Although he possessed the necessary skill, nevertheless he did not put it to use.

TREADMILL OF CORPORATE FRAUDS IN INDIA

Corporate frauds in India involve deceiving all the stakeholders and concerned parties such as investors, customers, lenders, government, creditors etc. One example of each stakeholder fraud is given in following cases, which were the highlighted frauds of their time. The Corporate fraud treadmill of India has existed since independence and is still on despite vast changes in the legislations and business ecosystems.

1. The Mundhra Scandal, 1957- Deceiving Government- The Mundhra Scandal, India's first large-scale financial fraud, occurred in 1957. Haridas Mundhra, a Kolkata entrepreneur and stock trader, convinced India's Life Insurance Corporation (LIC) to finance Rs. 1,26,86,100 in six struggling businesses' equity. Because the LIC was a governmental agency, these investments have been made under duress and without addressing the LIC's investment board. Feroze Gandhi presented the concerns in Parliament, alleging that H.M. Patel, the Financial Secretary, and T.T. Krishnamachari, the Minister Of finance, were engaged in pressuring the LIC's participation based on a secret interchange of communications between both the two. Chief Justice M.C. Chagla convened a one-man committee of inquiry. The Ministry of Finance was accused of being to blame. Mr. Mundhra was taken into custody and sentenced to 22 years in prison.⁸

2. The Saradha Chit Fund Scam, 2013- Deceiving Investors- Sudipto Sen, the owner of Saradha group, was the kingpin and mastermind in conceptualizing this scam. Saradha group was functioning through more than 100 companies. It appointed agents to induce investment in the company and promised them commission ranging from 25-40 per cent per customer. It heavily invested in social activities to raise the confidence of the public in the company. Hence, once it was done, it started collecting money from the public through secured debentures and redeemable preference bonds. This all was done in clear violation of “Section 67 of the Companies Act, 1956”. The Collective Investment Scheme (CIS) was launched in the name of chit funds, which do not come under “the Securities and Exchange Board of India”, but under the

⁸ *Independent India's First Big Financial Scam: Mundhra Scandal*, <https://thelogicalindian.com/news/independent-indias-first-big-financial-scam-mundhra-scandal/>, March 18, 2022

State governments. In 2012, the scam was exposed by SEBI. In April 2013, Sudipto Sen wrote a confessional letter to CBI and was later arrested.

3. The Kingfisher Airlines Fraud, 2013- Deceiving Lenders- Vijay Mallya launched Kingfisher Airlines in May, 2005 after borrowing money from various banks. He owns UB Spirits, known for the Kingfisher beer brand. He then started Kingfisher Airlines, which initially did well until Mallya decided to acquire Deccan Aviation Ltd. (DAL), which was not even able to meet its half operating cost. The funds used to acquire were taken as loans from various banks & finally in 2012, Kingfisher Airlines mounted a huge debt of a ballpark amount of Rs. 9000 Crores and was accused of fraud and money laundering in the country.⁹

4. The Speak Asia Scam, 2010- Deceiving Customers- Speak Asia had been an internet marketing firm that offered internet services for Rs. 11,000 per solution. It designed a fraud scheme in which investors were required to fill out paperwork for global corporations in exchange for a guaranteed annual subscription of Rs. 52,000. The customers were provided a login and instructions for creating a profile on the firm's site, as well as access to the following two online survey forms. Besides, bringing other people to take the membership on the company's online platform had a commission of Rs. 1000 for existing members. It initially paid a few investors and wrapped up its operations in 2011. Approximately, 24 lakh investors were duped and a fraud amounting to Rs. 2276 Crore was committed. Later, its mastermind Ram Sumiran Pal was arrested in Delhi.¹⁰

5. The Recent GST Fraud- Deceiving Government- In this case, two businessmen floated two entities for fraudulently issuing fake Input Tax Credit (ITC) without the actual supply of goods. This meant that ITC was being claimed by these businessmen without actually supplying the goods. Hence, an evasion of Rs. 79.21 Crores was made on the taxable value of the concocted supply of Rs. 450 Crores.¹¹

⁹ Business Standard, *Who is Vijay Mallya?*, <https://www.business-standard.com/about/who-is-vijay-mallya>, March 18, 2022

¹⁰ Raj Shekhar, *Speak Asia promoter held for Rs. 2200 Crore Scam*, <https://timesofindia.indiatimes.com/india/Speak-Asia-promoter-held-for-Rs-2200-crore-scam/articleshow/26434497.cms>, April 23, 2022

¹¹ Press Trust of India, *GST Officers Arrest two businessmen for 70.21 Crore tax evasion*, <https://www.hindustantimes.com/india-news/gst-officers-arrest-2-businessmen-for-rs-79-21-crore-tax-evasion/story-3pVNP7WOPOHuffu9BG7sgN.html>, March 18, 2022

6. National Herald Case- Corruption is among the white-collar offenses, and there is an ongoing investigation. In a Delhi court, “Subramanian Swamy, an Indian economist and politician”, had lodged a complaint against Rahul Gandhi and Sonia Gandhi. They did that because the “Indian National Congress” loaned the “Associated Journals Limited (ALJ)” Rs 90.25 crore. Furthermore, this loan has no interest. In 2010, he additionally founded Young Indian, a firm with a wealth of Rs.50 lakhs. The acquisition of ALJ shares worth Rs 50 lakh by the company comes as no surprise. The shares are valued at Rs 5,000 crore. Finally in 2019 the assets of the Gandhi family were permanently attached by the Enforcement Directorate. The assets are worth Rs 64 crore. As a result, this is probably one of India's most serious white-collar offenses for laundering money.

7. Common Wealth Game Scam- Competitors from the Commonwealth of Nations compete in a wide range of sports at the Commonwealth Games, an international tournament. It only occurs once per year. The Commonwealth Games Federation is in charge of the event. Suresh Kalmadi conned the Commonwealth Games. The Games Management Committee was chaired by him. Swiss Timings was offered a contract valued At rs 141 crore as a response. Swiss Timings' timing gadgets have a sticker price of Rs. 95 crores. The players were also instructed by the chairman to remain in areas in which the atmosphere was unfavorable. This occurred after the CMW scam was discovered by the “Central Vigilance Commission”. This swindle resulted in the theft of Rs 70,000, in combination with low amenities for the competitors. He was arrested for his offense under charges of fraud, conspiracy, corruption and forgery with intent to defraud. This is the biggest white-collar crime in India as a whole.

DIRECTORIAL FRAUDS

If corporate directors mislead third parties while working on behalf of the firm, the corporation will be fined as well. In most statutes, the portions concerned with the firm's criminal offenses involve the business and its executives. In 2013, the UK Court of Appeals made the decision in *Jetivia SA & anr. V. Bilta*¹² that this is where the directors started acting to denude the corporation of its holdings and thus caused it to revert back in VAT payouts towards the UK

¹² [2013] EWCA Civ 968, www.supremecourt.uk/decided-cases/index.html, March 23, 2022

HMRC, the corporation was decided to hold to be a target as well as also did have such an assertion against the violation of fiduciary obligations responsible to that by its shareholders.¹³

In India, Section 447 of the Companies Act, 2013 penalizes anyone who commits fraud involved in at least 10 lakh rupees or 1% of revenue, whichever one is less, with prison sentences tend to range from 6 months to 10 years and fines varying from the sum engaged in the fraud to 3-fold the proportion implied in the fraud. If indeed the sum is now in the interest of the public, the sentence would be no or less 3 years behind bars. If the sum implicated is much less than 10 lakh rupees or 1% of the revenue, whichever one is smaller, and that there is no national benefit, the penalty will be at least 5 years in imprisonment or a fine of up to 50 lakh rupees, with the emphasis on personal accountability. The maximum was raised from 20 lakh to 50 lakh just after Companies Amendment Ordinance of 2018. Another effect is that when a director is proven guilty of wrongdoing and condemned to 6 months or longer in jail, he should spend five years after his sentence expires before becoming a director in some other firm.

LEGAL ASPECT

- **Important Legislation for White Collar Crime** - Companies Act, 2013 - The Companies Act, 2013, is a piece of legislation that deals with corporate fraud. Each and every act, dismissal, obstruction of any fact, or improper conduct perpetrated by any individual or any other individual with the acquiescence in any way, with the intention to defraud, obtain unfair advantages from, or cause injury the success of the corporation, its shareholders, lenders, or other individual, even if there isn't any unlawful benefit or unlawful loss, as described in S.447 of the Companies Act 2013, contains any act, failure to act, cover - up of any truth, or dereliction of power. In order to amount to Fraud, an act must be confined to acts committed by a party to contract with an intention to deceive another party or his agent or to induce him to enter into a contract. To be considered fraud, an act should be limited to activities undertaken by a contracting party with both the aim to mislead or persuade another party or his representative to sign a contract. Fraud that invalidates a contract must be connected to the actions of the contracting parties. This term emphasizes the need to establish the intent of the individual who now has conducted fraud. If such a person knowingly committed a deception,

¹³ Komal Shah, ACS, Understanding Fraud & Building Fraud Prevention Mechanisms, 53, Chartered Secretary Journal, November 2019

he will be held accountable. Usually, the person refers to himself or his representative. False recommendations, hiding of facts, empty promises, or other dishonest behavior meant to mislead others are examples of fraud.

- **Section 447: Penalties for Fraud** - “Any individual convicted of fraud faces a sentence of imprisonment of not or less than 6 months but not more than ten years, as well as a fine of not less than the sum engaged in the fraud but not more than threefold times the cost involved inside the fraud”. When the fraud affects the interests of the public, the sentence must be at least 3 years in jail.¹⁴
- **Penalty For a False Statement (S.448)** - Any individual who provides a statement in either returns, record, certificate, financial report, presentation, statement, or even other data and processing by, or even for the purpose of, any provision of the Law or the rules adopted thereunder –
 - which would be untrue in any material specifics and is aware that it is incorrect; or
 - which neglects any relevant facts despite the fact that it is material
- **False Evidence Punishment (Section 449)** - If someone offers false evidence on purpose – In almost any affidavit, testimony, or formal affirmation in and about the wrapping up of any corporation under this Act, or about other issue arising underneath this Act, He will be sentenced to a minimum of 3 years in prison and a maximum of 7 years behind bars, as well as a fine of 10 lakh rupees.
- **Punishment in the Event of No Particular Punishment or Punitive Measures (Section 450)** - If a corporation, an executive of a corporation, or other individual violates any provisions of the Act or the rules were made pursuant to section where no penalty as well as punitive measures is provided elsewhere around the Act, people shall be fined up to Rs. 10,000 and, if the breach of the rules has been extending, and a further fine up to Rs.1,000 for each day after first wherein the flagrant violation is occurring.⁷
- **Sanctions In the Event of Recurring Default (Section 451)** - If a corporation or an employee of a company commits a crime punishable by fines and prison again for subsequent offense time within 3 years, that corporation and every employee of that corporation who is in violation must be punished with double the fine for that crime, in addition to any sentence specified for that offense. This section does not apply if the offense is committed again after a 3-year term has passed after the first offense.

14 The Companies Act (12 of 2013)

- **Penalties are Adjudged (Section 454)** - The Central Government might designate adjudicating officers to adjudicate penalties under this Act by issuing an order that is announced in the official gazette. The Central Government must also define their authority. The adjudicator may issue an order imposing sanctions on the corporation and the defaulting official, citing any non-compliance or failure under the applicable Act provision. Any person who is dissatisfied with an adjudicating officer's decision may appeal to the regional manager with authority over the case.¹⁵

The Indian government has enacted a number of regulatory laws, any violation of which will be considered white-collar crime. “The Essential Commodities Act of 1955 and the Industrial (Development and Regulation) Act of 1951 are two of these laws. The Import and Exports (Control) Act of 1947, the Foreign Exchange (Regulation) Act of 1974, the Companies Act of 1956, and the Prevention of Money Laundering Act of 2002” are all important pieces of legislation. Criminal actions such as credit card fraud, insurance forgery, and bank fraud are all covered by the “Indian Penal Code”. In the instance of laundering money, the Indian government has undertaken several measures to handle the situation. “The Reserve Bank of India” had given directions for banks to follow KYC (Know Your Customer) standards to the letter. Transaction data must be retained for 10 years by banks and other financial institutions.

CASE LAWS

- **Binod Kumar v. Jharkhand State & Others**¹⁶ - Many officials from the state of Jharkhand, and also the Chief Minister, were charged of having undeclared money. The High Court asked the Central Government to use the power granted under Section 45 to transfer the matter from the Enforcement Directorate to the CBI (1A). Despite having considerable amounts of money and also no proof of laundering money, the ministries sought a harsh trial. The ministers claimed that there have been no proprietors of assets in India or overseas. As a result, the court requested an order to ascertain if the property was obtained through official means. It is required to determine whether such a crime involving whites has occurred under the Anti-Corruption Act of 1988 as well as the Indian Penal Code of 1860. It is required to determine whether such a crime involving whites has occurred under the Anti-Corruption Act of 1988

¹⁵ The Companies Act, 2013

¹⁶ (2011)

and the Indian Penal Code of 1860. Because the Directorate of Enforcement has sole authority to probe under “the Anti-Money Laundering Act, the CBI launched its inquiry under the Anti-Corruption Act of 1988 and the Indian Penal Code of 1860. Section 45 (1-A) of the Anti-Money Laundering Act applies to the Central Government.

- **C.B.I. v. Abhay Singh Chautala**¹⁷- In this case, there have been two appellants who've been accused in special proceedings under Section 109 of the Indian Penal Code for violations under Sections 13 (1) (e) and 13 (2) of the Anti-Corruption Act, 1988. Both defendants were charged with amassing wealth in surplus of their earnings while serving in the Assembly. So, when the Central Bureau of Investigation (CBI) initiated an investigation, it was discovered that the appellant's dad had accumulated vast riches, but also that the appellants had done the very same. The appellant had actually given the accused an entirely different job from the one that existed at the time, according to the High Court. As a result, the sentence was declared invalid under Section 19 of the Anti-Corruption Act of 1988.
- **SEBI v. Burman Plantation and Others**¹⁸ - A counsel for SEBI claimed before the Allahabad High Court that the company was just being wrongfully accused because it was unable to satisfy its debts, particularly repayments, to its shareholders. When questioned about the company's assertion, the council stated that the statement was released in 2003, however the orders were filed in 2004 while no loan payments had been made. Moreover, the sum claimed by investors is never revealed. The advocate's key point was that by modifying the legislation under Section 24 (1) of the SEBI Act, the legislators had raised the term from one year to ten years and it had now elevated the penalty to Rs 25 crore. Ravi Arora, the guilty, had to accept responsibility at some point.

PROPOSED PREVENTION MECHANISMS

- **The Company Secretary's Compliance** - This is where the seemingly insignificant attendance registrations, board documents, and meetings unexpectedly become important. Attending a board meeting immediately places a director under the "consciousness" umbrella. When it comes to assigning blame, keeping track of who participated, wherever they did not take part, how they voted, and where somebody dissented is critical. Surprisingly, the

¹⁷ AIR 2011, SCC 1257

¹⁸ 2013

secretarial requirement for Board of Directors meetings mandates that draft minutes be distributed to all board members of Directors, not just those who were present at the meeting.

- **Inspection and Background Verification** - This concept occurs in a corporation where a director wields significant authority and engages a senior level worker in the start-up of the company. Before someone is proposed for and promoted to board and chief executive roles, it is only reasonable to do extensive vetting, background checks, and validation. It is critical to thoroughly review each post and perform all necessary checks ahead of time in order to detect fraud at a preliminary phase.
- **Robust Internal Controls** - The value of strong corporate governance should never be overlooked. The *Story of the London Whale*¹⁹It was determined that JP Morgan suffered a greater loss as a result of the bank's standard operating procedures being inadequately equipped and oriented to keep this from happening. As a result, regulatory directives for internal audit functions must be issued. According to Section 134 (5) (e) of the Companies Act, 2013, the directors of a publicly traded business must affirm in their responsibility declaration how they have established internal cost control for the organization to pursue and that these controls are sufficient and effective.
- **Policy of Whistleblowing** - An organized vigil system and its reporting techniques are specifically mentioned in Section 177 (9) of the Companies Act, 2013, to create efficient whistle blowing measures. It's also crucial to note that the Act clearly requires whistleblowers to have access to the Chairman of the Audit Committee, as well as necessary safeguards to prevent them from being victimized. It does not, however, prevent certain crusaders from moving forward and blasting the corruption cap off. The greater whistleblower security is, the better the odds of earlier fraud detection.
- **Remuneration** - It may seem unusual to incorporate remuneration in fraud preventative measures, but the sensation of not being sufficiently remunerated is perhaps one of the factors that leads a board or senior staff member to the point of fraud. Appropriate board assessment and compensation rules can lead to the establishment of a performance-based reward system. The criteria should not be so lax that an organization can effectively accomplish them, nor will they be so rigorous that they appear to be an insurmountable hurdle.

¹⁹ Patricia Hurtado, Quick Take, The London Whale, <https://www.bloomberg.com/quicktake/the-london-whale>, March 29, 2022

- **Exit Checks and Claw Backs** - Exit examinations might raise red signals regarding probable fraud participation, especially when small staff are functioning and reimbursed effectively. There are bound to be some responses that don't add up someplace. After that, the organization can look into it. Because executive remuneration appears to be mostly performance-based, clawback clauses in employment contracts, which allow the firm to reclaim incentives and bonus pay granted to executives, are indeed a useful deterrent tool. In the event of fraud, clawback procedures would allow for the restoration of such payment.

CONCLUSION AND SUGGESTION

White collar crimes feature two startling characteristics: first, they are peaceful offenses, second, they are perpetrated by those in higher professions who have a feeling of control or autonomy. These crimes are, nevertheless, also performed by low-paid underlings, even if the mastermind behind the fraud is a wealthy individual with a high social standing in his field. Peer influence or workplace culture are often factors in white collar crimes. While our society progresses towards modernization as well as the world benefits from new technical developments, crime rates are steadily rising. The rate of white-collar crime, in general, has risen dramatically. These crimes are committed in a variety of settings, including the medical field and academic facilities.

White collar crime is an encroachment that harms the country's economy along with everything else. It interferes with the economics of the country by committing financial crimes, cash embezzlement, and valuation fraud, among other things. It has a detrimental effect on the wider population as well as the monetary position of a nation or a person. Many acts of aggression, such as incompatibility, bribery, and charge avoidance, have had a bad influence on society. There is no proven significance of the master's unruly behavior in Indian law. The Sangh should not tolerate these horrible practices associated with money. Punishment should be severe in relation to miserable behavior in the workplace as forest control interferes with this idea of occupation. If abusive behavior is abnormally abusive, control can be relatively relaxed to life repression. Public thinking through any correspondence medium is equally popular because people do not consider the majority of this violation.

White collar crime is growing at an alarming rate, and the press has a pivotal function in slowing it down. The majority of white-collar offenses were discovered to be unreported. As a result, steps will be taken to educate the masses on white collar crime if indeed the press is much more proactive in publicizing schemes and frauds at a greater level and reveals how high-ranking

persons in the firm are unilaterally abusing their authority. Corrupt. Exercises, then it will definitely help in reducing the rate of committing white collar crimes. The government should follow real principles regarding cash related exploitation in the country. To spread it evenly, significant changes in the structure and relations of the economy and legal issues are needed to mitigate India's slowing economy and reduce the size of the favorable economy after some time. We need to remove the extraction foundations that increase access to assets and openings and helps to build part boundary. It is far more inconvenient than expected and may have more political costs than is currently required, reducing its appeal as a political platform. The urban elite, formed largely by the influence of votes, spending and actions, has earned the respect of globalization.