

# UNIT 6 – UPSC - Offences Relating To Property

Property is mainly divided into two parts, namely movable and immovable. Any offence which is committed in regard to any property whether it is movable or immovable is punishable under the provisions of the law of Crimes or the Indian Penal Code. These offences and the punishments relating to them are explained in details in **sections 378 to 460 of the Indian Penal Code, 1860 (Act No. XLV of 1860)**.

The offences which are mainly recognized in the said Code are ten in number.

1. Theft.
2. Extortion.
3. Robbery and dacoity.
4. Criminal misappropriation of property.
5. Criminal breach of trust.
6. Receiving stolen property
7. Cheating.
8. Fraudulent deed and disposition of property.
9. Mischief.
10. Criminal trespass



## 1. Theft.

This offence is defined in section 378 of the Code and it relates only to movable property. Thus it can be said that the immovable property can not be made a subject-matter of theft. But sometime the property which is immovable, after it is taken out from the earth can be stolen, for example a tree so long attached to earth can not be made a subject of the offence of theft is complete. This term is defined as : whoever, intending to take dishonestly any movable property out of the

possession of any person without that person's consent moves that property in order to such taking, is said to commit theft.

There are five exceptions to this definition.

The punishment for this offence is given in section 379 which says that the offence shall be punished with imprisonment to the extent of 3 years or with fine or with both.

## 2. Extortion.

This is defined in section 383 of the code which in short lays down that if one puts any person in fear of any injury and induces him to deliver any property or valuable security commits extortion. The punishment for the offence is shown in section 384 of the code which is the same as that for theft.

Main ingredients of the offence are-

- (a) intentionally putting a person in fear of injury to himself or another: and
- (b) Dishonestly inducing the person so put in fear to deliver to any person any property or valuable security.

The distinction between theft and extortion is

- (a) In extortion the consent is obtained and in theft no consent is required,
- (b) In extortion both the property movable or immovable may be the subject matter, but in theft only movable property can be stolen,
- (c) in extortion the delivery is there by inducing fear while in theft the thief takes away the property without getting delivery from the owners and lastly,
- (d) in extortion the overpowering of the will of the owner exists. While in theft the element of force is absent.

## 3. Robbery and Dacoity.

In all types of robbery there is either theft or extortion, when theft or extortion becomes robbery is explained in section 390 of the code giving.

The offence of dacoity is defined in section 391 of the code as 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, amounts to five or more every person and aiding such commission in or aiding is said to commit dacoity' thus it is clear that it robbery is committed by five or more persons or even it is attempted or aided by that number of persons it will become dacoity.

The punishment for the offence of robbery vide section 392 may extend to 10 years of rigorous imprisonment, but if it is committed on a high way between sunrise and for the offence of dacoity is given in section 395 which says that the offender may be punished with transportation for life or rigorous imprisonment for a term which may extend to 10 years and also be liable to fine.

## 4. Criminal misappropriation of property.

Section 403 of the code which says whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment which may extend to 2 years or with fine or both.

## 5. Criminal breach of trust.

This offence is defined in section 405 and its punishment is detailed in section 406 of the code.

The main ingredients to complete the offence are ;

a. Entrusting any person with property;

b. The person so entrusted;

(i) Either dishonestly misappropriates or converts that property to his own use;

(ii) Dishonestly using or disposing of that property in violation of;

(i) any direction of law in which such trust is to be discharged; or

(ii) Any legal contract made touching the discharge of such trust, this offence can be committed by carrier, wharfinger, warehousekeeper, clerk, servant, public servant, banker, merchant, agent, broker, attorney and the like.

## 6. Receiving stolen property.

This is the subject-matter of section 411 of the code which prescribes that the receiver of stolen property shall be punished with imprisonment for a term which may extend to 3 years or with fine or with both. From this it is clear that the receiver of stolen property is punished in the same way as the person who actually steals the property vide section 379.

The essential requirements for convicting a person under this section are mainly two, one is dishonest receipt or retention of the stolen property and second is that he had knowledge at the time of receipt that the property was obtained in one of the ways as laid down in section 410

Section 412 deals with dishonestly receiving property in the commission of dacoity.

Section 413 lays down punishment for a person who habitually deals in stolen property;

Section 414 punishes the person who assists in concealment of the stolen property.

## 7. Cheating

This is a very common offence and is generally heard of in the society. It is dealt with in section 412 to 423. Out of this section 416 deals with cheating by impersonation which is punished vide section 419. Section 417 punishes for the offence of cheating and the last section 420 which is very commonly known deals with the offence of cheating and dishonestly inducing delivery of property. The punishment in this section is prescribed as imprisonment for either description for a term which may extend to seven years and also liable to fine.

The main ingredients of the offence of cheating are

- (1) Description of any person;
- (2) (a) fraudulently of dishonestly inducing that person;
  - (i) to deliver any property to any person; or
  - (ii) to consent that any person shall retain any property; or
- (b) intentionally inducing that person to do or omit to do anything which he would not do or omit if he was not so deceived, and which act or omission caused or is likely to cause damage or harm to the person in body, mind, reputation or property.

## 8. Fraudulent deeds and disposition of property.

This subject is covered in sections 421 to 424 and the subject in regarding benami transaction in fraud of creditors, that is, the offence consisted, in dishonest disposition of property with intent to cause wrongful loss to creditors. The offence may be against movable or immovable property. This is given in section 421 of the code. Sections 422, 423 and 424 deal in the same way with an offence which defrauds creditors in different ways.

## 9. Mischief.

Ingredients of mischief as given in section 405 are as under ;

- (1) Intention or knowledge of likelihood to cause wrongful loss or damage to the public or to any person;
- (2) Causing destruction of property or any change in the same or in the situation;
- (3) by such change the property must be destroyed or its value is diminished or its utility is marred. The punishment for this offence is inflicted vide section 426 and it is only punishment for 3 months or with fine or with both. Different types of mischievous are dealt in sections 427 to 440.

## 10. Criminal trespass.

Offences of this type are dealt in sections 441 to 460. The 3 essential heads of this offence are;

- (1) Entry into the property which is in possession of other person without consent;
  - (2) if such entry is with permission then staying after the permission is withdrawn, that is, if the said entry was lawful in the beginning, but if one remains there unlawfully afterwards;
  - (3) The entry and remaining there unlawfully with the intention:
    - (a) To commit offence;
    - (b) To insult, annoy or intimidate the person who is in possession of the property.
- This offence is defined in section 440 of the code. There are several types of trespass as house trespass, house breaking, and lurking house trespass.