CLATalogue
The Home of Law Aspirants

BLOGS

Learn in a Minute: Criminal Breach of Trust

Ruchika Mohapatra · 15 Jul 2024

Criminal breach of trust under IPC involves dishonest misappropriation of property or funds by someone to whom they were entrusted. Read more about it here!

Introduction

Criminal breach of trust is used to describe a specific type of crime that involves the misappropriation or misuse of property that has been entrusted to someone. This concept is found in Section 405 of the IPC, and it involves an act of dishonesty by a person who has been given responsibility for managing or looking after property.

Definition of Criminal Breach of Trust (Section 405 IPC)

Criminal breach of trust occurs when a person to whom property is entrusted, or who has dominion over it, dishonestly misappropriates, converts, uses, or disposes of that property in a manner contrary to the terms under which it was entrusted. For example, an employee entrusted with company funds uses them for personal purposes or a trustee responsible for a trust fund uses it for personal benefit

Essential Elements of Criminal Breach of Trust

- The property must be given to someone with a clear understanding of how it should be managed, used, or disposed of.
- The person has control or authority over the property.
- The person must act with the intent to cause wrongful gain or wrongful loss to another.
- The property is used, taken, or disposed of in a way that violates the terms of entrustment.

Punishment under IPC

Section 406 provides the punishment for criminal breach of trust, as defined in Section 405. According to Section 406, a person found guilty of criminal breach of trust can be subjected to:

- Imprisonment: Up to three years.
- Fine: The amount of which is determined at the court's discretion.
- Both: A combination of imprisonment and fine.

Section 407 of the IPC deals with criminal breach of trust by specific individuals who have been entrusted with the carriage, storage, or custody of goods.

According to Section 407, if these individuals commit criminal breach of trust with respect to the goods entrusted to them, they are subject to the following penalties:

- Imprisonment: Up to seven years.
- Fine: Determined at the court's discretion.
- Both: A combination of imprisonment and fine.

Section 408 of the IPC applies to clerks or servants who commit criminal breach of trust concerning property or funds entrusted to them by their employers. It recognizes the special position of trust and responsibility that clerks and servants hold and prescribes a more severe punishment compared to general cases of criminal breach of trust.

Under Section 408, a person found guilty of criminal breach of trust by a clerk or servant can face:

- Imprisonment: Up to seven years.
- Fine: As determined by the court's discretion.
- Both: A combination of imprisonment and fine.

Section 409 IPC deals with criminal breach of trust committed by individuals in specific roles that involve a high degree of responsibility and public trust. This section recognizes that when such individuals misuse or misappropriate property or funds entrusted to them, the impact can be severe, affecting public confidence and institutional integrity.

According to Section 409, if a public servant, banker, merchant, or agent commits criminal breach of trust, the following penalties can be imposed:

- Imprisonment: Up to 10 years, or even life imprisonment in severe cases.
- Fine: As determined by the court’s discretion.
- Both: A combination of imprisonment and fine.