BLOGS

Property Offences under Indian Penal Code

Harshita Gulati · 14 Oct 2020



Mischief

It is an offence dealing with the damage to property

Section 425 IPC- Whoever with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or any person, causes the destruction of any property, or any such change in any property or the situation thereof as destroys or diminishes its value or utility, or affects it industriously, commits “mischief”

Essential Ingredients of Mischief

1. Intention or Knowledge to Cause Wrongful Loss or Damage (mens rea)

Mens rea is the most essential element of any act constituting mischief. The accused should have the intention of causing damage to any property or wrongful loss to any person. The intention of causing damage or wrongful loss alone is enough for it to be called mischief.

2. Wrongful Loss or Damage

The essential mental element while committing mischief should be directed towards causing ‘destruction to the property’, ‘damage’ or ‘wrongful loss’ to the public. The intention of the accuser can be that of causing wrongful loss or damage to any person. Example, tearing off some important documents relating to property or finances.

3. Causing Destruction of Any Property or Any Change in it

It is important that damage is caused by one way or the other and the damage should be a direct consequence of the alleged act. For example, changing the words of a speech

4. Destroys or Diminishes Value or Utility, etc.

Diminishing the value of something like, leaking out an exam paper or deliberately misplacing important files and folders in time of need constitutes mischief.

The offender need not intend loss or damage to the owner of the property. It is sufficient if he intends to cause injury to any property whether or not it belongs to that person. The property may belong to the offender or to him jointly with others.

The essence of the offence of mischief is that the accused must diminish the value of the property by causing certain damage to it i.e. something should be done to the property contrary to its natural use. Mischief involves mental act with destructive animus.

In the case of **Krishna Gopal Singh and Ors. Vs. the State of U.P.**, it was held that the offence of mischief would not be committed if the accused has not committed an act with the intent to cause wrongful loss or damage to any person or the public at large.

Illustrations

1. Rob knew that Dave had grown some agricultural products on the land. He intended to spoil the produce thereby causing harm and financial loss to Dave. He, therefore, left some horses on the land to run and graze on the produce. This would amount to mischief.

2. Dave to cause loss to Robb poisoned all these cattle by mixing poison in the food they would eat. This would amount to mischief.

Punishment for Mischief

The punishment for the offence of Mischief has been prescribed under Section 426, IPC with imprisonment which may extend to a term of 3 months or with fine or with both imprisonment and fine.

If a person damages public roads by violating the specific provision of law amounts to mischief as provided under Section 3 of the Prevention of Damage to Public Property Act, 1984

Criminal Misappropriation

Section 403, IPC– Whoever dishonestly misappropriates or converts to his use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Essential Ingredients of Criminal Misappropriation-

1. The property must be of another

For constituting criminal misappropriation the essence behind this act is that the property must be of some other owner other than the person using it dishonestly for his use.

2. Finding of Property

Someone gets a property of others on the roadside, let's say, a gold ring or wallet and he keeps it to himself since the real owner is unknown but even if the true owner is identified he uses and keeps the property with himself this act is an offence known as misappropriation of property.

If a person finds a property he should exercise all the reasonable means to find the true owner and wait for a reasonable period before converting it to his property.

3. Servant or Clerk Taking his Master's Property

Theft of property by servant or clerk stealing the property of his master is a punishable offence as master imposes greater trust in them to look and care about the property.

4. Dishonest Intention

Whoever dishonestly misappropriated any movable property shall be punished with imprisonment. Even if appropriation or conversion is only for a temporary period it will still amount to criminal misappropriation.

It is not necessary that the finder should know who the owner of the property is or that any particular person is the owner of it. It is sufficient if at the time of appropriating it he does not believe it to be his own property or in good faith believes that the real owner cannot be found.

The finder must wait upon a reasonable time to allow the owner to claim the property before he appropriates it.

In the case of Ramaswami Nadar v. the State of Madras, the Supreme Court held that the words used in section 403 such as 'converts to his use' necessarily says that the accused has used or dealt with the property in derogation of the rights of the owner of the property.

Illustrations

I. Tom takes property belonging to King out of King's possession in good faith, believing, at the time when he takes it, that the property belongs to him. Tom is not guilty of theft; but if Tom, after discovering his mistake, dishonestly appropriates the property to his use, he is guilty of an offence under this section.

II. Tom finds a letter on the road, containing a banknote. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence

under this section.

Punishment for Criminal Misappropriation

As per Sec.403, this offence is punishable with imprisonment of either description for a term which may extend to 2 years or with fine, or with both.

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