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An Analysis the Impact of Corruption with respect to the Working of the Company from the Outlook of Indian Legal Framework

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ABSTRACT

Corruption refers to wrongful act or criminal offences committed by individuals' organization in positions of authority to abuse power of person gain. Corruption affects markets and promotes unfair competition. Companies frequently pay bribes or manipulate bidding to secure public/private procurement contracts. Private firms wield enormous power in many public areas. So it's clear how corruption in private-sector enterprises undermines taxpayers' interests, helps consumers, and effectively paralyzes the entire system.

Keywords: *Corruption, crime, law, white-collar crime.*

I. INTRODUCTION

“All collective human life is directly or indirectly shaped by law. Law is like knowledge, an essential and all-pervasive fact of the social condition.”²

-Niklas Luhmann(German sociologist)

Corporate fraud involves illegal activities committed by an individuals or companies for personal or company benefits , classified as civil and criminal . The word "corporate fraud" has two different interpretations. It can be a fraudulent offence performed by or against a firm. A corporation can commit fraud in a variety of ways to shield itself from audits and improve its reputation in the industry. Alternatively, a firm may fall victim to its workers' fraudulent activities, such as asset misappropriation, corruption, or financial statement fraud. To avoid fraud, an organization must understand how to do proper business.

II. CORRUPTION

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² Khushal V and Fillipos A.2009. Legal Research Methods 3 (Justice and Legal System Research Institute.

public/private procurement contracts. Many firms conceal corrupt practices behind hidden deals and arrangements. They attempt to exert undue influence over political decisions. Many firms manipulate tax regulations to avoid paying taxes, form cartels, or take advantage of legal loopholes. Private firms wield enormous power in many public areas. So it's clear how corruption in private-sector enterprises undermines taxpayers' interests, helps consumers, and effectively paralyzes the entire system.

(A) Research Objectives:

- a) To analyse the impact of corruption in a company
- b) To analyse the measures taken to eradicate corruption in a company

(B) Research Questions:

- a) Whether corruption have negative impact on working of a company?
- b) How can corruption be eradicated in a company or its members?

(C) Significance of research:

- One of the major reasons for increasing corporate fraud cases is there so much of expectations in the company from the business .
- Some of the important reasons are competition in the market and high economic pressure etc.

III. IMPACT OF CORRUPTION

One of the major impact of corruption is facing a financial loss in an organisation it cause damage to an employee and it causing damage to its reputation of their company Corruption that are faced by an individual is losing their job filling a criminal charges on them for their illegal activities damage to a relationship between the employer.

- a) **Financial loss-** company will face a financial loss it leads to legal fines for their activities.
- b) **Damage reputation** - corruption lead to cause a damage for company reputation. It will lead to lower the market level for their business development.
- c) **Reduced employee morale-** corruption can lead to reduced productivity for a company to cause damage to reduced employee morale.
- d) **Missing opportunities** - corruption leads to miss the business opportunities for a reputation company.

- e) **Loss of shareholders and investors**- It will lead to loss of shareholders and investors confidence level for a particular organization.
- f) **Reputational Risks**- Corruption leads to some legal and reputational risk for a particular naming company.

IV. LEGISLATIONS THAT GOVERN CORPORATE FRAUD

(A) Companies Act 2013

This act provides punishment for the person who commits fraud against the company. According to section 447 of companies act any person who commits fraud will be punished with the imprisonment of 10 years or fine that depends upon the fraud they committed ,it will extend three times of fraud they involved.

a) Section 447a Punishment For False Statement

If any person makes a false representation in any report or a any other documents that is related to the registrar will be punished with imprisonment for a maximum of three years or the fine or both.

b) Section 448,449 And 450 Punishment For Forgery

This section talks about forgery offenses against a company. An individual who created a forged document or existing document of the company will be punishable with imprisonment of 7 years and can be fined five thousand rupees .

c) Section 542: Liability For Fraudulent Conduct Of Business

When the company is about to windup at the time the person who is running the particular company is liable for all the fraudulent conduct of business and if the company had any kind of debts and liabilities.

(B) Securities and Exchange Board of Indian Act 1992

This act was established by the government of India in 1992 to protect the interest of investors who is investing in securities market .

a. Objectives:

- Most important objective is to protect the investors is one of the main objective in SEBI.
- To prevent the fraudulent practices and malpractices.
- Maintaining a balance between statutory regulations and self regulations

b. Section 12A

This section talks about the Prohibition of manipulative and deceptive devices and insider trading to any person directly or indirectly to commit a fraud .

c. Section 15E

The penalty should be given by the asset management company who fails to follow the regulations .

- The minimum penalty will be one lakh .
- The maximum penalty will be one crore rupees.
- The penalty for the each day will be upto one lakh .
- These are the two important sections that are comes under the SIBE ACT.

(C) Prevention of Corruption Act, 1988

The prevention of corruption Act was enacted to stop corruption fight and the other offenses like malpractices in government and public sector business in India the offenses that are committed will be punishable under this act according to the offenses done by an individual .

Some of the key provisions of prevention of corruption Act :

a. Bribe giving as an offense:

Bribe giving offense made with the punishment of 7 years imprisonment except when the people forced to give a bribe it will helps the people to refuse to give bribe it will lead to corruption free India

b. Pre investigation approval :

Prior approval is needed before starting a investigation to higher officers or an anu individual regarding a particular offenses committed by them .

c. Sanction for prosecution :

Prosecution sanction means it is a written permission getting from a competent authority for an person to prosecute.The government can give prosecution for under crpc prevention of corruption Act 1988. The government can also invite senior officer to grant a permission .

d. Criminal misconduct :

There are two forms of misconduct -

- **Misappropriation of property :**

Misappropriation of property entrusted to a public servant means using a property of another person for their own use. It means illegally and intentionally using another one's property.

○ **Illicit enrichment :**

Illicit enrichment means when an individual's income increases and they can't provide a valuable reason for their legal growth. It means predicate corruption .

e. Confiscation of property :

Confiscation of property means that government or any other public authority will be taken the private property permanently without any compensation given by the government to the particular individual who had that property.

V. PREVENTIVE METHODS TO STOP CORRUPTION AS A YOUTH

(A) Pay Zero Bribe

Saying no to bribes helps to avoid corruption . Encourage the people to say no to the bribe it leads to avoid the demand of bribe who are demanding for it .This concept was originated in India where it know as zero rupees. This is one of the ways to express the corruption free India by young adults.

(B) Protest

Protest is one of the ways for citizens and people to come together to give their opposition against that particular thing in public and it is a very good tool for anti corruption campaigners.

(C) Join A Youth Group

Youth group is one of the powerful weapon for the opposition for corruption they will be so many groups different groups have different types of opinion for all the groups there will be only one common goal is to talk openly about their opposition for corruption.

(D) Using Theater To Picturised

By using theater to show dance, music ,poetry ,short film can be used to show people for anti corruption. To create positive awareness among people for corruption free India.

(E) Through Drawings

Through drawings and paintings sometimes comics also help to have a deep debate about the anti corruption it is one of the fastest ways to convey the awareness among the public.

(F) Follow The Money

Our government had vast money to spend for the public. This can lead to serious corruption

risk. We can show the public how our taxes are being spent and expose any offences.

VI. INVESTIGATION OF CORRUPTION

Investigations can involve in a various forms of methods, including

- a) **Interviewing The Witness** -Through interviews they try to investigate the things that they need to collect from the particular individual .While interviewing a person they interview in their own language.
- b) **Collection Of Documents** -Investigators should contain documents and records. It should be identified filed and includes origin , location, date and name of origin etc.
- c) **Analysing Information** -Investigators will analyse the information through some other sources and they gathered information through interviews.
- d) **Surveillance** -Sometimes investigator will use surveillance camera or devices or intercept telecommunication .
- e) **Informants**- Investigators will use informants to collect the information regarding particular offences .
- f) **Chronology**- Investigators they may create a chronology to help proving knowledge and intent.

VII. MOTIVATION TO INVOLVE IN CORRUPTION

- **Voluntary** - Sometimes corruption can be done by voluntary act by an individual with the intention of gaining some advantages for themselves through their company.
- **Normal business practice** - sometimes they used to do normal offences that are committed by a mistake to belief that common practices that usually happens like wrongful withholding of payment it will not be shown as criminal offences .
- **Extortion** - sometimes they used to get the money by illegal activities of threatening or blackmailing the particular person .For eg : posting a unwanted adds regarding their company .

These are the some of the motivation to involve in a corruption.

VIII. CASE LAW

1) Kingfisher Airlines Ltd vs Union Of India

Facts:

Kingfisher Airlines industry which led to the failure of the whole Kingfisher empire .The

Kingfisher company was owned by the great business man vijay mallya. This company was very famous for the top most brand of beverages later the company introduced a airlines to achieve more in their field they introduced a luxurious aeroplane and the service of the company was in high demand it was the second largest company in the market after Jet Airways . Later Sometime the company had some bad debat and the owner of the company had planned to sell his own properties and beverage business to settle down the debat.This case had lot of business failure due to bad debat than the corporate fraud .

Issues in the vijay mallya case:

Whether these issue depends on the allegations , through his own company Kingfisher Airlines, bending of loans amounting to approximately ₹9,000 crore, which it leads to significant financial losses for banks ?

Judgement:

In December 2018, the Westminster Magistrates' Court in London gave a favour of Mallya's extradition to India, to made a charges of money laundering and financial fraud on him.The court noticed that the proof was submitted by Indian Advocate was enough for Mallya to face trial in India. Mallya's legal team argued against the charges were politically motivated, and Mallya's legal advocate continued to file appeals. Mallya's advocate appealed the decision. This case was took in London's High Court in 2019 proceed that the original decision and refused the Mallya's appeal against extradition.After the rejection of the appeal he had option how to get permission to appeal to the Supreme Court of the United Kingdom. He not filed that appeal within the given time, and this meant that the extradition process was continued to charges to avoid the arrest and maintained that the case against him. After the 2021 decision, the legal arguments continues both UK and India, but he has stayed in the UK, he continue to challenge these case through various legal methods.

2) Narayanan Nambiar vs. State Of Kerala Air 1963 S.C 1116

Fact:

The case Narayanan Nambiar v. State of Kerala, AIR 1963 SC 1116, is a significant decision by the Supreme Court of India, primarily focusing on criminal law. In this case, Narayanan Nambiar was convicted under the Prevention of Corruption Act, 1947, for accepting a bribe in his capacity as a government official.

He was a public worker as a village officer in Kerala.

He was adressed wrongful act of taking a bribe in exchange for a daily official duty.

He was charged under the Prevention of Corruption Act, 1947, particularly under Section 5(1)(d), which deals with criminal misconduct by public servants.

Issues:

Whether the evidence used in the lower courts was adequate to convict Nambiar of accepting a bribe and whether the proper procedures had been followed were the main legal questions in this case.

Judgement:

Evidence: Using both direct and indirect evidence, the prosecution was able to prove the case beyond a reasonable doubt.

Corruption: The Prevention of Corruption Act was flagrantly broken in this case, and public employees who engage in corrupt activities are subject to severe consequences.

Procedural Aspects: The Court looked into the conduct of the proceedings and discovered no major anomalies that would invalidate the verdict.

This case is significant because it showed how seriously the Indian judiciary handles instances involving the abuse of public office and strengthened the country's anti-corruption legislation. It also emphasized how important it is for criminal proceedings to strictly adhere to evidentiary standards, particularly when it comes to cases involving corruption.

IX. CONCLUSION

To bring a corruption free India not only the rules of government and the law should be followed every young generation should avoid bribe everything and they should bring a corruption free India and also for necessary of well being. Corruption is a complicated and diverse issue that can have disastrous consequences for society, economy, and government structures. It erodes trust in public institutions, stifles economic progress, worsens inequality, and restricts access to essential services. Corruption can take many forms, ranging from tiny bribery to large-scale fraud and embezzlement, and is frequently the result of conspiracy between public officials, private companies, and other stakeholders. Corruption must be combated through the use of strong legal frameworks, independent judicial systems, transparent processes, and active civic engagement. Accountability, honesty, and the rule of law are critical in combating corruption. Whistle blower protection, anti-corruption institutions, and civil society lobbying all play vital roles in lowering the frequency of corrupt activities. To summarize, while corruption is deeply embedded in many systems worldwide, it.
