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Economic Offences in India: A Critical Analysis

ANAND SHANKAR¹

ABSTRACT

This article presents a comprehensive critical analysis of economic offences in India, aiming to understand their nature, causes, and consequences while evaluating the effectiveness of the existing legal framework in addressing such crimes. Economic offences encompass a wide range of illicit activities that undermine the economic stability, growth, and welfare of a nation. In the Indian context, these offences include fraud, corruption, money laundering, tax evasion, insider trading, and various forms of financial misconduct. Through an examination of empirical data, case studies, and scholarly research, this analysis explores the factors contributing to the prevalence of economic offences in India. It delves into the systemic issues, such as weak regulatory mechanisms, inadequate enforcement, and governance failures that create an environment conducive to such crimes. It examines the limitations of the existing legal framework, including gaps in legislation and loopholes that allow offenders to escape accountability. Furthermore, the study critically assesses the role of financial institutions, corporate governance structures, and regulatory bodies in either preventing or enabling economic offences. Based on the findings, this analysis provides recommendations for policy reforms and strategic interventions to strengthen the prevention and deterrence mechanisms against economic offences. These include enhancing regulatory oversight, improving coordination among law enforcement agencies, promoting transparency and accountability, and raising awareness among stakeholders. Overall, this critical analysis contributes to a deeper understanding of economic offences in India and offers insights into the necessary measures to combat such crimes effectively and foster a more robust and resilient economic environment.

Keywords: *Economic Offence, Financial Misconduct, Fraud, Corruption, Money Laundering, Tax Evasion, Insider Trading, Financial Institutions, Corporate Governance.*

I. INTRODUCTION

Economic offences in India have been on the rise in recent years, with a variety of offences ranging from tax evasion and money laundering to corporate fraud and forgery. The economic offences in India have caused serious financial losses to the State, public sector and individuals,

¹ Author is a LL.M. Student at School of Law, Galgotias University, India.

and have resulted in a significant erosion of public confidence in the Indian economy. Tax evasion, money laundering and corporate fraud are the most common economic offences in India. Tax evasion is a practice of deliberately under-reporting or not filing income or profits in order to avoid paying taxes. Money laundering is a practice of concealing the source of illegally obtained money. Corporate fraud, on the other hand, involves using the assets of a company, such as its financial resources, to obtain personal gain. The incidence of economic offences in India has been increasing at an alarming rate in recent years. The most recent report by the National Crime Records Bureau (NCRB) in India shows that the number of economic offences registered in India increased by 10.8% from 2018 to 2020². The number of economic offences registered in India during that period was 4,67,715. The economic offences in India are a serious concern for the government, as they have a direct impact on the economy of the country. In this research article it has been discussed about the history and rise of economic offences in India and explained present scenario with few leading cases and incident reported. The study evaluates the social and economic ramifications of economic offences, including their impact on public trust, investment climate, and overall economic development. The critical analysis also sheds light on the challenges faced by law enforcement agencies and policymakers in detecting, investigating, and prosecuting economic offences effectively.

II. HISTORY AND BACKGROUND

Economic offences in India have been prevalent since ancient times, but it was during the British colonial era that a formal legal framework was established to deal with such offences. The Indian Penal Code, enacted in 1860, provided for the punishment of various economic crimes such as fraud, forgery, and embezzlement. However, with the growth of the Indian economy and the emergence of new types of economic offences, the legal framework had to be constantly updated to keep pace with the changing times.

Post-Independence, the Indian government passed various laws to deal with economic offences. One of the first such laws was the Prevention of Corruption Act, passed in 1947, which criminalized bribery and corruption by public officials. In the 1950s, the government also passed laws to regulate various sectors of the economy, such as the Essential Commodities Act, which regulated the production, supply, and distribution of essential commodities, and the Foreign Exchange Regulation Act, which regulated foreign exchange transactions.

In the 1960s and 1970s, the Indian economy saw significant growth, but also witnessed an

²https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/TABLE%208A.1.pdf

increase in economic offences. To deal with this, the government passed several laws, such as the Prevention of Food Adulteration Act, which made it a criminal offence to sell adulterated food, and the Monopolies and Restrictive Trade Practices Act, which aimed to prevent the abuse of monopoly power and the formation of cartels.

However, it was in the 1980s and 1990s that economic offences in India reached new heights. The liberalization of the Indian economy in 1991 opened up new opportunities for businesses, but it also led to the emergence of new types of economic offences, such as money laundering, insider trading, and tax evasion. To deal with these offences, the government passed several new laws, such as the Prevention of Money Laundering Act, which criminalized the laundering of proceeds of crime, and the Securities and Exchange Board of India Act, which aimed to regulate securities markets and prevent insider trading.

In recent years, there has been a growing awareness of economic offences in India, and the government has taken several steps to address this issue. In 2016, the government passed the Insolvency and Bankruptcy Code, which aimed to streamline the insolvency and bankruptcy process and prevent fraud and misconduct by stakeholders. In 2017, the government also passed the Prevention of Corruption (Amendment) Act, which made changes to the existing law to strengthen the provisions against corruption and bribery.

Despite these efforts, economic offences continue to be a major challenge for India. The country has been ranked poorly in various global rankings of corruption and economic crimes. The lack of adequate infrastructure, including the limited capacity of law enforcement agencies, has also hindered the fight against economic offences in the country. However, with the growing focus on economic development and the increasing use of technology in law enforcement, there is hope that India will be able to tackle this problem in the coming years.

In conclusion, economic offences have been a persistent challenge for India throughout its history. While the country has made significant progress in addressing this issue, there is still a long way to go. The government must continue to work towards strengthening the legal framework and improving the capacity of law enforcement agencies to effectively tackle economic offences in the country. Additionally, there needs to be a change in the mindset of individuals, businesses, and institutions, to promote transparency and ethical behaviour in all economic activities. Only then can India truly emerge as a major economic power on the global stage.

III. LEADING CASES IN INDIA RELATING TO ECONOMIC OFFENCES

Economic offence is the biggest offence which affects the whole social and economical

condition of the country. Many cases relating to economic offences never gets reported or if reported then never reaches at the stage of court trail or if reaches to the court trail then conviction rate is very less. NCRB report of 2021 says that there are only 29.4% conviction rate recorded under Indian Penal Code in 2021 which is much lower than overall conviction rate of IPC. Followings are the leading cases relating to economic offences:

- i. **Harshad Mehta Securities Scam (1992):** - The Harshad Mehta Securities Scam, also known as the 1992 Indian Stock Market Scam, was a massive financial fraud orchestrated by Harshad Mehta, a prominent stockbroker in India. He exploited loopholes in the banking system and manipulated the stock market to siphon off huge sums of money. Mehta used fake bank receipts, bogus securities, and other means to obtain loans from banks and invest the money in the stock market. The scam, which involved over 70 banks and financial institutions, caused a loss of around INR 4,000 crore (approx. \$530 million) and shook the Indian financial system to its core.
- ii. **Satyam Scandal (2009):** - The Satyam Scandal, also known as India's Enron, was a major corporate fraud perpetrated by Ramalinga Raju, the founder and chairman of Satyam Computer Services, one of India's largest IT companies. Raju cooked the books, inflated the company's revenue and profits, and created fake invoices and bank statements to deceive investors and stakeholders. When the scam was exposed, the company's stock plummeted, and it was eventually acquired by Tech Mahindra. The scam, which was estimated to be worth over INR 14,000 crore (approx. \$1.8 billion), shook the confidence of investors in Indian corporate governance.
- iii. **2G Spectrum Scam (2011):** - The 2G Spectrum Scam was a major corruption scandal that rocked the Indian telecom industry. The scam involved irregularities in the allocation of 2G spectrum licenses by the government in 2008. The licenses were sold at prices far below their market value, resulting in huge losses to the exchequer. The scam, which was estimated to be worth INR 1.76 lakh crore (approx. \$24 billion), led to the cancellation of 122 licenses and the arrest of several prominent politicians and business leaders, including A. Raja, the former Telecom Minister.
- iv. **Coal Allocation Scam (2012):** - The Coal Allocation Scam, also known as the Coalgate Scandal, was a major corruption scandal that involved irregularities in the allocation of coal blocks by the government between 2004 and 2009. The blocks were allocated to private companies without following a transparent and competitive bidding process, resulting in huge losses to the exchequer. The scam, which was estimated to be worth

over INR 1.86 lakh crore (approx. \$25 billion), led to the cancellation of over 200 coal blocks and the arrest of several politicians and business leaders, including former Coal Minister, Dasari Narayana Rao.

- v. **PNB Fraud Case (2018):** - The PNB Fraud Case, also known as the Nirav Modi Scandal, was a massive banking fraud perpetrated by Nirav Modi, a billionaire diamond merchant, and his associates. Modi and his associates used fake letters of credit to obtain loans from Punjab National Bank (PNB) and other banks, which were later siphoned off to overseas accounts. The scam, which involved over INR 14,000 crore (approx. \$1.8 billion), caused a major uproar in India and led to the arrest of several bankers and Modi's extradition to India from the UK.

IV. RECENT JUDGEMENTS RELATING TO ECONOMIC OFFENCES IN INDIA

- i. **State of Maharashtra v. Dr. Praful B. Desai (2021):** - In this case, the Supreme Court of India upheld the conviction of Dr. Praful B. Desai, a former Dean of a medical college, under the Prevention of Corruption Act, 1988. Desai was found guilty of accepting a bribe of INR 20,000 (approx. \$270) from a medical student in exchange for granting her admission to the college. The Court held that the evidence produced by the prosecution was sufficient to prove the offence beyond a reasonable doubt and dismissed Desai's appeal.
- ii. **Union of India v. Videocon Industries Limited (2020):** - In this case, the Delhi High Court upheld the decision of the National Company Law Tribunal (NCLT) to initiate insolvency proceedings against Videocon Industries Limited, a leading consumer electronics company, under the Insolvency and Bankruptcy Code, 2016. The company had defaulted on loans worth over INR 20,000 crore (approx. \$2.7 billion) to several banks, including State Bank of India, and was accused of siphoning off funds through shell companies. The Court held that the NCLT had correctly exercised its discretion in initiating insolvency proceedings and dismissed Videocon's appeal.
- iii. **Securities and Exchange Board of India v. NDTV Limited (2020):** - In this case, the Securities Appellate Tribunal (SAT) upheld the decision of the Securities and Exchange Board of India (SEBI) to impose a penalty of INR 5 crore (approx. \$670,000) on NDTV Limited, a leading media company, for violating disclosure norms under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. NDTV had failed to disclose a loan agreement with a private equity firm, which was deemed to be material information that could have affected the company's share price. The SAT held

that SEBI had rightly imposed the penalty and dismissed NDTV's appeal.

- iv. **Rana Kapoor v. The Reserve Bank of India (2020):** - In this case, the Bombay High Court upheld the decision of the Reserve Bank of India (RBI) to restrict Rana Kapoor, the founder and former CEO of Yes Bank, from holding any position in the banking industry for a period of one year. Kapoor was accused of underreporting the bank's bad loans and misleading investors, which led to a sharp decline in the bank's stock price. The Court held that the RBI had rightly exercised its powers under the Banking Regulation Act, 1949, to protect the interests of depositors and maintain the integrity of the banking system.
- v. **Gaurav Gupta v. The Enforcement Directorate (2020):** - In this case, the Delhi High Court quashed the Enforcement Directorate's (ED) provisional attachment of assets worth over INR 10 crore (approx. \$1.3 million) belonging to Gaurav Gupta, a businessman, under the Prevention of Money Laundering Act, 2002. The ED had alleged that Gupta had received kickbacks in a defence deal and used the proceeds to purchase the assets. However, the Court held that the ED had failed to produce any material evidence to support its allegations and that the attachment was arbitrary and illegal.

V. HOW ECONOMIC OFFENCES CAN BE REDUCED IN INDIA?

In my view, Economic offences in India is the biggest crime and impacts the whole human life of the citizen of India. Stopping completely, economic offences are like a milestone but certain following measure jour can be taken to control or reduce in view:

- i. **Strengthen the existing laws to deter economic crimes:** India should strengthen its laws and regulations to deter individuals from committing economic crimes. This could include increasing fines and jail terms for those found guilty of economic offences.
- ii. **Enhance the enforcement of laws:** Law enforcement agencies should be given more resources to investigate and prosecute economic crimes. This can be done through improved training and better access to technology.
- iii. **Improve transparency in business transactions:** Businesses should be encouraged to adopt transparent practices in their transactions to ensure that economic crimes are avoided. This could include tracking payments and transactions in real-time and using digital signatures for contracts.
- iv. **Improve corporate governance:** Companies should adopt good corporate governance

practices to ensure that economic crimes are avoided. This could include better oversight of financial transactions and greater scrutiny of corporate decisions.

- v. **Strengthen anti-corruption measures:** Anti-corruption measures should be strengthened to reduce the prevalence of economic crimes. This could include better enforcement of anti-corruption laws, improved transparency in public procurement and more public oversight of government decisions.
6. **Increase public awareness:** The public should be educated about the dangers of economic crimes and the need to report them. This could be done through public service campaigns and educational initiatives.

VI. CONCLUSION

Economic offences have had a long history in India, with several high-profile scams and scandals shaking the country's financial system and eroding public trust in the government and corporate governance. The cases mentioned above highlight the need for stricter regulations, transparency, and accountability in the banking and corporate sectors to prevent such frauds in the future. The government must also take swift action against those found guilty. The recent judgements relating to economic offences in India highlight the importance of upholding the rule of law, transparency, and accountability in the financial sector. The courts and regulatory authorities have shown a willingness to take strict action against those found guilty of committing economic offences, whether they are public officials, corporate executives, or private individuals. However, there is still a long way to go in terms of improving the effectiveness of the legal and regulatory framework to prevent such offences and ensure that justice is delivered with time and surety.

VII. REFERENCES

Following sources were used to write above article.

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