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Gang Crime: A common threat to Society

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Crime in our country is most common. It's not only dangerous for society at large, but also to an individual, especially those who are a victim of crime. When it comes to the Gang crime or we may call it an organized crime, it is a more dangerous and serious offense as an offense in such a situation is done by more than one person. Gang crime is continuing since the British era and it is not only common in India but also in foreign countries, as we look at this article it has actually evolved in foreign countries. Special laws under crops, IPC, and Evidence Act, and acts have been made by the government to curb this practice of gang crime. Thus these articles deal with the same that how it occurs and what are the remedies for the same. It is important to curb these and for these, it is important to make strict laws in our judicial system.

Keywords: *illegal activities, organized crime, evolution of organized crime, special laws, government acts.*

INTRODUCTION

Crime is a social harm. It is not only harmful to individuals, it is harm that occurs to more than one person. It means crime is the act that deals with society at large. Crime is an act that is done by a person or by a group of people and is penalized by the State. For committing a crime both guilty mind, i.e. Mens Rea, and guilty act i.e. actus reus. The intention is the main factor that should be there for committing any crime. Without intention, one cannot say that he has committed any crime. Thus Guilty mind plus a Guilty act is equal to the commission of the

crime. From the above, it is understood when it is called gang crime. Gangs are the association of three or more individuals, have some signs, symbols, or slogans for their group identity, and as the name suggests "Gang Crime" they are engaged in criminal activity. Members of the gang set up some rules for joining, they meet on a regular basis and provide protection to their members. These all are characteristics of the Gang that commits the crime.

EVOLUTION OF ORGANISED CRIME

Organized Crimes is another word for Gang Crime. It is as similar to Gang crime was more than three persons are involved in committing the crime. Its main purpose is to do illegal activities such as theft, fraud, murder, kidnapping, etc. These people are also engaged in supplying illegal goods like drugs and also engaged in illegal services like gambling. Organized crimes are common not only in India but also in different countries like Europe and Asia, where there are smugglers, jewel thieves, and drug traffickers. Also in Sicily and Japan, there is a criminal organizations. It mainly flourished in the USA during the 20th century. As there was growth in crime there was also the formation of a national organization. Organized Criminals also become more organized after manufacturing illegally and selling and transporting liquor. Police protection was most important where organized crime existed. The main reason for the flourishing of organized crime in the USA is threats and murder that syndicates use to prevent victims and witnesses. Bribing Judges is another factor and useful tool that municipal police forces tolerate organized crime activities. Apart from the United States Criminal syndicates are popular in Australia, Japan, Asia, and Britain. In many developing countries organized crime is also called the black market as criminal activities include smuggling and corruption. Armed robbery become popular due to the availability of arms by those who were seeking political destabilization of their own or other countries. After the dissolution of the Soviet Union, organized crime flourished in Russia and there was a rise in organized crime more than 5000 who were responsible for money laundering, tax evasion, and murder of a businessman, journalists, and politicians.

LAWS AND SPECIAL LAWS FOR ORGANISED CRIMES

There are some laws that are related to organized crimes. Under IPC section 391¹ talks about Dacoity where two or more people jointly commit or attempt to commit robbery and when there is more than five or more than it is said to be Dacoity. Dacoities are a gang that commits theft and such type of offense is organised crime. And the punishment for such offence is under **section 395**² which is imprisonment for life or rigorous imprisonment for ten years and shall be liable with a fine. Also, Dacoity with murder under section 396³ of IPC is an organized crime where more than five people commit murder and punishment is the same as Dacoity under section 391 of IPC. Along with these Robbery or dacoity with an attempt to cause death or grievous hurt and attempt to commit robbery or dacoity with a deadly weapon under **section 397 and 398**⁴ of IPC respectively is also organised crime as more than five people is essential for committing the crime. Also, section 400 and 401⁵ of IPC, which talks about gang dacoits and gang thieves also comes under organised crime. Also under section 120-A⁶ of IPC which talks about criminal conspiracy. It states that when two or more persons agree to do an illegal act, or it may be no more illegal then such agreement is designated as a criminal conspiracy. Such type of act is also organized crime. Also, section 120-B⁷ of IPC deals with the punishment of criminal conspiracy which can be punishable with death, imprisonment for life, or rigorous punishment of two years, and whoever is the party to a criminal conspiracy other than a criminal conspiracy shall be punished with imprisonment with life or description of a term not exceeding six months or with fine or with both. These are some laws of organized crime, Special Laws for organized crime.

¹ Indian Penal Code, 1860, s 391

² Indian Penal Code, 1860, s 395

³ Indian Penal Code, 1860, s 396

⁴ Indian Penal Code, 1860, ss 397 and 398

⁵ Indian Penal Code, 1860, ss 400 and 401

⁶ Indian Penal Code, 1860, s 120A

⁷ Indian Penal Code, 1860, s 120B

Narcotic Drugs and Psychotropic Substances Act, 1985

The Narcotic Drugs and Psychotropic Substances Act, 1985 was enacted to control and regulate narcotic drugs and psychotropic substances and the illicit traffic of narcotic drugs and psychotropic substances and to prevent illicit traffic of such drugs and substances. It was further enacted to fulfill the treaty of India under the convention on "Narcotic Drugs and Psychotropic Substances, United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances." The main objective of these acts is to prevent, combat, and regulate operations relating to these substances. It is also to forfeit the property which is used in the illicit traffic of such drugs, it is also for implementing the provisions and to add or omit the list of psychotropic substances. According to these acts manufacturing narcotic drugs or harbouring persons is a serious criminal offense and will be imprisoned for 10 to 20 years and may be extended up to 20 years and also with a fine of Rs. 1 lakh for the first offense and for the period to 15 to 30 years for the Subsequent offense with fines. For the small number of drugs trafficked then it will be punished for a maximum of six months and rigorous imprisonment for 10-20 years and with a fine from Rs. 1 lakh to 2 lakh. These acts were amended thrice - 1st it was amended in 1988, second in 2001, and third in 2014 and is implemented in the whole of India and even outside India. Detention of any person is allowed according to these acts by the central or state government. And these are necessary for preventing him from doing any harm. According to the act, detention is for 1 year but it can be also extended to 2 years.

Terrorist and Disruptive Activities (Prevention) Act, 1987

This Act is defined as a "terrorist act" and it is an organized crime. It lapsed in 1995. The Act defines a terrorist act and disruptive activities and it also put up restrictions on granting bail. Thus, separate courts were established specially for cases filed under TADA.

OTHER LAWS RELATED TO ORGANISED CRIME

- The Customs Act
- Immoral Traffic (Prevention) Act 1956

- Foreign Exchange Regulation Act, 1973
- The Public Gambling Act, 1867

MAHARASHTRA CONTROL OF ORGANISED CRIMES ACT, 1999

This Act came into effect on 24th February 1999 and the Act got the assent of the President on 23rd April. The Act extends to the whole State of Maharashtra and by virtue of the 2022 order of the Union Ministry of Home Affairs, it also extends to the National Capital Territory of Dehli. This Act was introduced only in Maharashtra to control organized crime and terrorism. These had an impact greatly on the economies of India due to which there was huge control over the murders related to the film industry as well by builders, extortion of money from businessmen, abduction, etc. These all were in control in the entire Maharashtra State. As there was an increase in the use of technology for committing an organised crime, it was these reasons to introduce these ordinances and thus **“Maharashtra Control Organized Crime Ordinance 1999”** was introduced.

VARIOUS OBJECTS OF THESE ACT

The main object of these acts is to make special provisions to control crime done by an organized crime or gang. It was also necessary to implement this act for proper adjudication of organized crime. The main object of these acts was that these types of organized crime have no boundaries and it may be extended to illegal wealth that is extracted from contracts, murder, extortion, smuggling kidnappings, illegal trade, and criminals who are involved in such organized crime aid the terrorist gangs by illegal funding of wealth and black money and for these was all reason to introduce special laws for preventing such organized crime.

FEATURES OF MONICA

- It is a cognizable offense.
- Section 167⁸ of craps is applicable to an amendment of subsection (2)⁹ of these sections with reference to 15 days and 6 days wherever it is appearing in that subsection with an

⁸ Maharashtra Control Organized Crime Act, 1999, s 167

amendment in 30 and 19 days respectively. Amendment in 30 and 19 days respectively. Amendments to 30 and 19 days respectively.

- No anticipatory bail is allowed.
- No bail is allowed if the accused was on bail at the time of the offenses punishable under these acts or in any other law.
- If the police want to put the accused in custody for interrogation have to file a written statement giving all reasons as to why they want to put the accused in custody.
- Under this act, the court can grant bail unless the public prosecutor has opposed the bail application and if the court is satisfied that the accused is not guilty and will not commit any offense if he is released on bail then the court may grant a bill to the offender.
- Special Courts are organized for the cases that deal with organized crime.
- The act also provides interception of wires, and a medium of electronic and oral communication to keep track of organized crime.
- Special provisions for the protection of witnesses under this act for the offenses related to organized crime and also to the forfeiture and attachment of the property of the accused.
- Special powers to High Courts and Supreme Court under sections 28 and 29¹⁰ of this Act.
- Commission of organized crime can lead to life imprisonment with a fine up to Rs 1 lakh and if the organized crime does not lead to life imprisonment of life, it may lead to imprisonment not less than 5 years and a fine up to Rs 5 lakh.

NATIONAL SECURITY ACT - ORGANISED CRIME

The National Security Act was introduced by Indira Gandhi and was coming into existence on 23 September 1980. It is an act that gives power to the government to detain any person if the government authorities think that he/she is a threat to society and thus prevent disturbance in

⁹ Maharashtra Control Organized Crime Act, 1999, s 167(2)

¹⁰ Maharashtra Control Organized Crime Act, 1999, ss 28 and 29

public order. These acts are mainly for the detention of the people who are a threat to Indian society. These people are mainly foreign people and those who affect the Indian society are detained and those are mostly from foreign countries. Detention is mainly for 12 months and without charge. The person who is detained can appeal before the high court. The National Security Act was first introduced during the colonial era. In the British era, Bengal regulation III was enacted according to which the British government can detain any person who destroys public order and is also threatening peace and harmony in the country. Rowallt Act was also similar act as National Security Act which was implemented after independence. Indira Gandhi introduced a contrast to that is the Maintenance of Internal Security Act in 1971 and which was amended to the National Security Act in 1980. According to Section 50¹¹ of CrPC, any person who is arrested or detained has to be informed of the grounds of arrest and has a right to bail also according to Article 22 (1)¹² of the Indian Constitution arrested person has the right to consult a legal practitioner of his choice to defend himself. Such provisions are already being provided by the law, but none of them is available in the National Security Act and as no FIR is registered under National Security Act as National Crime Records Bureau does not include cases that come under National Security Act. More recently, on January 17, 2020, the Lieutenant Governor of Delhi ordered the commissioner of the police to detain people under National Security Act for three months between 19 January and 18 January. The other recent news is in January 2019, the BJP Government in Uttar Pradesh detained three people under National Security Act in connection with a cow-slaughter case. Another 2018, Manipur journalist Kishore Chandra Wangkhem was detained for 12 months under the National Security Act for a Facebook post against the Chief Minister.

CONCLUSION

Thus, it is important to prevent these types of crime, and we see that the government has made many such acts and special laws to deal with organized crime. Organized crime is nothing but in simple terms, a gang crime we see and such crime is not new, it is being practiced since the colonial period. It is in the hand of the court whether to give justice to people who are the

¹¹ Code of Criminal Procedure, 1973, s 50

¹² Constitution of India, 1950, art.22(1)

victim of such crimes. As we see gang crime is a heinous crime, and it is necessary to implement some laws in criminal law to protect people who are the victim of such offenses. To keep track of such crimes, all the states should make coordinated mechanisms between the state so that it is easy for all to find information and can catch such people easily and such mechanisms should also be made to link foreign countries and our country as mostly such organized crime is done by foreign people who come to India and commit the heinous crime in India. Such crime should be brought to the courts and should not only be in the hands of the police.