

Corporate criminal liability

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Abstract: Corporation are not novelties. They are institutions of very ancient date. Corporations are the integral part of society and are part of our life, without this the growth in economical field have no face. From the last two centuries, they are getting the very dominant position. Power and control as gained by these corporations affect the industrial, economics and social web also. Its not wrong to be said, corporations are the assets and these assets sometimes have a very dangerous impact on society, because companies become corrupt criminal when, they have intention to obtain only economic benefits and completely ignoring social responsibilities towards society and its own members. Corporations are counted as non-human institutions. It is difficult to ascribe criminal behaviour when, it is applied to applied to current criminal liability principles. For this reason it led to the development of principle of corporate criminal liabilities. This principles makes these corporations responsible for their criminal action in the form of law.

Keywords: Corporates, criminal, liability, corporations, responsibilities, social, economic, industrial, companies.

INTRODUCTION

Corporation are known to be as non-human institutions and also a separate legal entity. By this principle of corporate criminal liability any criminal liability can be separated from corporation and will applied to individual member for any fraud or mistake. Based on the basic principle of criminal responsibility maxim; *actus non facit reum nisi mens sit rea*, which means that a function is not wrong, as well as the condition of brain, therefore in each crime two elements are present known as physical which is called as actus reus and other mental known as mens rea. Subject matter of criminal responsibility are the companies and for the crime during their commercial process, they have to take responsibility of their own doings. The first attempts to promote criminal liability in companies were made by common law countries such as England, the United States and Canada. In 1842, English department recognised corporate criminal liability, where a corporation was fixed for not fulfilling a legal duty.

When a corporation is convicted in criminal courts, it violates the scope of penalties in which it is tried. A company can be responsible for the responsibility, as well as the specific element of intention. However, in appropriate circumstances, it is to be said that specific element must be clear to approach towards corporate criminal liability. The need for such is to create a very better platform to hold the active approach of companies toward the law and the society also and is somewhat uncertain when the responsibility of corporation is not based on the knowledge or intention. The operations of a corporation then only work within the work of its employees. Corporate reflects the law on criminal responsibility

WHO CAN COMMIT CORPORATE CRIME?

Business crime is very wide in the area in which criminal justice system must reform its responsibility. When we give concern to this area the question arise whether companies are criminally liable or not is no longer question to entertain, the question is that how to justify the objectives of the criminal justice system by determining the responsibility of the company. The researcher made efforts to investigate these aspect in the following discussion.

Liabilities of the corporations - Jurists in their research adopted and applied the rule that gives caution to common law states, the rule is that the company will be criminally liable for the illegal actions of its employees if the employees don't act within their authority and the merits of their conduct. The company may be criminally liable for the illegal conduct of its employees in the following cases

1. 1. Doing of the unlawful act during employee's work in their field or their area concern and
2. 2. The employee's conduct, at least in part, must be in favour of the company.

Liability of individuals

People within the company such as employees, Directors, management are also responsible for their criminal acts. In such cases, the question arise is whether there is indirect responsibility for the managers, etc., by the company for the unlawful act of which the company is responsible as a distinct entity. The supreme court of India has made it clear that, as a fundamental principle of criminal jurisprudence, there is no indirect liability unless the law specifically provides for it as to secure it for further.

TYPES OF CORPORATE CRIME

In this era of various fields in which companies influence life through various activities, the scope of corporate crimes is different from physical and also different from serious economic damage which is created by such unlawful act. In general, it goes without saying that the offender's wrongdoing may affect the mind, reputation or property in some way. At the mind, reputation or property in some way in the current intersection, we cannot say that companies cannot make any of these mistakes. On the other hand, the

effects and gravity towards such area exceed the personal commitment to personal capabilities. As discussed in the previous discussion, this kind of corporate crime is more confidential. Although the victim did not pay direct attention, and not directly involved in it but he suffered services corporate crimes. It is right to say that the things is that, corporate crimes are taken seriously because of their lick (errors because it is prohibited by the government) rather than a “fundamental mistake “. Therefore, it is difficult to place them in the correct position. In the study of types of corporate crimes, it was found that there was no specific classification of these categories of crimes, but researchers tried to classify them in order to understand the characteristics of various activities of a companies that they can be handle with under criminal law. On a large scale we can say that there are (1) criminal activities involving employees of the company (2) between companies (3) against society.

NEED OF THE DOCTRINE OF CORPORATE CRIMINAL LIABILITY.

Many laws and economists are in the view that corporate criminal liability is ineffective and the ground for individual corporate officer and agency and civil liability for criminal liability must be substantiated. That it does not exists separately from the different people who work in the realist institutions. But in present time, corporations are very powerful and very real actors, their behaviour often changes people and society socially. In today's modern world, the great influence of companies and their activities is important and incredible for society. In everyday activities, companies act as a blessing for the people and the society but sometimes it turns out to be catastrophic and fall into the category of crime. Tragedy of Uphar Cinema or other thousands of scandals are the basis of or the needs that require immediate attention. Professor Sutherland highlighted the serious consequences of white collar crime in 1940, because social and economic crimes are on the rise. The decades of the 90's and 20's were famous for scandals. Corruption falls under various example the main is in the case of the licence of telecommunications company 2G, the Delhi Games for joint funds of 2011 tax evasion of Hasan Ali, Harshad Mehta and Ketan Parikh using the stock market system unlawfully and due to such acts and various other same corrupted intentions and their application in the corporate field it leads to the need for corporate criminal liability.

EMERGENCE OF THE PRINCIPLE OF CORPORATE CRIMINAL LIABILITY.

It is true that the principle of criminal law developed in traditional times to punish the guilty and deter any act contrary to the individual. At the same time ,the company is traditionally and reliably consider for fake and undisciplined social entity consider itself incapable of taking physical actions towards their knowledge or intention to make a mistake. Commonwealth jurisprudence traditionally addressed it as a nominal problem, treating the institution as a group of some individuals and placed their corporate responsibility as a derivative of the culpability of their individuals players.

But in the context of criminal law, all modern systems share the basic assumption that criminal responsibility should fall on people who commit crime in favour of the company. To what extend, in what way should the company as a legal entity be held responsible for the criminal acts committed to achieve the objectives of the company? Corporate criminal liability is not a universal characteristic of modern legal system . Some countries such as Brazil, Bulgaria, the Slovak republic, do not recognise any form of corporate criminal liabilities. Other countries, such as Germany , Greece , Hungary ,Mexico and Sweden, do not established criminal liability, where administrative sanctions may be imposed on companies for criminal acts by employees. The criminal liability of company , as a concept did not exist in Britain before the industrial revolution. This concept is more settled in UK than in any other country . The beginning of joint criminal liability in the UK can be traced back to case of ,*Royal mill steam packet v. Braham* ,where it was said that the company is a person . In *Salomon v. Salomon and Co. Ltd*,it was observed that the business of the company has its own legal personality if the company is established by law.

The Indian legal system is a branch of common law. India did not recognise the concept of corporate criminal liability. There was considerable emphasis on the cause and incarceration to force liability for crimes that could not criminalistics legal entities. Section 11 of IPC defines that the ‘person’ would include “any Company of Association or body of persons, whether incorporated or not “Therefore, a corporation can be prosecuted under he provisions of IPC for the crimes committed under it. But it is clear fact that the corporation cannot be prosecuted as same as a human being for the crime done by him for instance rape ,murder where only punishment given under IPC is imprisonment . Then the area concern was to determine the position of the case when the corporation commits crime and such offence itself demands a mandatory punishment of both imprisonment and fine.

CONCLUSION

In this modern world, the corporation are harshly disturbing the life of people and community at its large or to be said affect the social life for their own economic benefit to which they give their very intention. This has grown with rapid growth and emergence of technological advancement. The government should take measures to take out the crime from the field of corporation and should create policies and other means to tackle those crimes which affect the society at its large. The main concern given to this topic is because the society is very much effected by all the kind of criminal activities, the companies must make such steps to undertake the progress to have control upon their own doing. Concern to this topic is also given by other branches of legal studies, especially rom the advocates which have concern toward human right and environmental laws, because of corporation steps the exploitation which end up in crimes against the entire state. In order to meet the expectation of today's modern world the government should take those policies pertaining the issue of above mentioned issues. Imposing the harsh and deter punishment may bring a new street to this law which connect it with the applicability of the law governing these corporations at its best. The companies by this will undertake to comply with the laws of the country.