



Regulatory Measures Relating To Economic Crimes In India

1MAHALAKSHMI. V, 2T. VAISHALI

1B.A, LLB. (Honours), LLM (Crime and Forensic Law), 2B.A (Eng. Lit.), LLM, Ph.d (Pursuing)

1The Tamil Nadu Dr.Ambedkar Law University, School of Excellence in Law,

2Assistant Professor, The Tamil Nadu Dr.Ambedkar Law University, School of Excellence in Law

ABSTRACT:

Economic crimes are crime which is committed against the society at large amount. There are different types of economic crimes i.e. fraud, money laundering, tax evasion, corruption, bribery, cyber financial crimes, etc. There are many legal and regulatory frameworks to regulate economic crimes such as Prevention of Corruption Act, 1988, The Companies Act, 2013, Prevention of Money Laundering Act (PMLA), 2002, Securities and Exchange Board of India (SEBI), The Benami Transactions (Prohibition) Act, 1988, and The Income Tax Act, 1961.

Keywords: Economic Crimes, crime against society, fraud, money laundering, legal frameworks.

INTRODUCTION:

Generally, economic offences are known as white-collar crimes and these are non-violent financially motivated illegal activities conducted by a person or an organization. However, these have emerged as one of the most serious issues in terms of economy, governance, and public trust in India. Fraud, tax evasion, money laundering, corruption, insider trading, etc., are the different types of economic crimes. All these crimes are steeply growing in an economically rapidly developing country like India, which is also subjected to the globalized and digitized business world. Great importance has been given to the impact of these crimes on public loss and development. India has much historical perspective regarding its colonial legacy, the economic liberalization process, and the global economy. Furthermore, the rise of economic crimes has been sometimes attributed to complex financial systems and evolving technology. The new-type crime, namely cybercrime, comes up with even more challenges in fighting financial fraud. According to scholars, the prevalence of economic crimes is widely perceived to be encouraged by inadequate regulatory oversight and systemic corruption, which present a fertile ground for exploitation. ¹

1. Sutherland, E.H., *White Collar Crime*, New York: Dryden Press, 1949.
2. National Crime Records Bureau, *Crime in India Report 2020*, Ministry of Home Affairs, Government of India.

Economic crime greatly hurt India's social and economic structures. Apart from the losses they incur in terms of money, these crimes disturb financial markets and dissuade foreign investments. According to a report from the National Crime Records Bureau (NCRB), India has been consistently experiencing an increase in economic crimes over the past ten years.² Publicized cases like frauds committed by Vijay Mallya and Nirav Modi have exposed loopholes in regulatory mechanisms and enforcement processes. Such instances exemplify how loopholes in the system can be exploited to siphon off huge sums of money that undermine the country's economic health.³ The Indian most powerful legal system has done a yeoman's job in providing remedies against economic crimes. Statutes such as the Prevention of Money Laundering Act (PMLA) of 2002; Companies Act, 2013; and Benami Transactions (Prohibition) Act, 1988 constitute the legal framework made for eliminating the offenses. Experts believe that legislation alone is not enough without enforcement and inter-agency coordination.⁴

ECONOMIC CRIMES:

Economic crimes, such as tax evasion, money laundering, corruption, and corporate fraud, have a damaging toll on the Indian economy. In fact, such crimes will seriously undermine public trust, distort markets, and hinder fair competition. For example, money laundering and tax evasion cause a lot of resources that could otherwise be used for essential development projects to flow away from India, which causes a serious detriment to the country's fiscal stability and economic growth. Most of the time, the same corrupt practices use public funds for petty personal favors that hinder the effectiveness of the institution, affecting marginalized communities the most. It is a huge set-back for India to fall prey to economic crimes. It is said that the 'black economy' that flourishes because of such illegal activities goes to show a big part of the GDP, hampering any developmental objectives of the nation.⁵

2. National Crime Records Bureau, *Crime in India Report 2020*, Ministry of Home Affairs, Government of India.
3. Sharma, A., *Economic Offenses in India: Trends and Challenges*, New Delhi: Sage Publications, 2018.
4. Jain, R., *Money Laundering and Economic Offenses: A Critical Analysis*, Mumbai: LexisNexis, 2019.
5. The Unintended Consequences of Regulatory Forbearance - Anusha Chari, Lakshita Jain and Nirupama Kulkarni.

The various scams, such as the Punjab National Bank fraud, reveal certain gaps in existing financial systems and illustrate the need to strengthen regulatory oversight against misuse and for the protection of

the economic integrity. Increased economic activity and advancements in technology have given rise to many economic crimes like money laundering, fraud, corruption, and tax evasion in India. These crimes have huge detrimental effects on the country like siphoning public funds off, creating an uneven playing field and curtailing foreign investment. For instance, money laundering spreads laundered wealth around the economy which distorts resource allocation and deprives the government of money for essential services.⁶ become aware that these are economic activities, like money laundering, fraud, corruption, and tax evasion; and these have been increasing in India with growing economic activity and improvements in technology. These injuries too have taken their toll on the country by channeling funds from the public, creating an uneven playing arena, and discouraging foreign investment. For example, money laundering enables the flow of illegal wealth around the economy thereby distorting resource allocation and depriving revenue settings from essential services. Still a burning issue on the streets and in offices, corruption distorts governance and people's trust therein. Tax evasions are other caveats hampering government infrastructures and welfare projects from coming to reality and are real heaviest burdens on honest taxpayers.⁷

KINDS OF ECONOMIC CRIMES

Economic offences can be broadly classified into three types, which are as follows:

1. Traditional economic offences like corruption, smuggling, false imports, etc.
2. Emerging or modern economic offences such as credit card theft/fraud, counterfeiting of currency, UPI fraud, cybercrimes, etc.
3. Cross-border economic offences which consist of offences such as money laundering.
4. Now, we shall look at some of the aforesaid economic offences in brief.

6. Reserve Bank of India.

7. Reserve Bank of India.

1. **Blackmail** is not entirely an economic offence, but has an economic aspect to it. It is a threat to do bodily harm to a person, in order to coerce another person to give something valuable money, a precious object, sensitive information, property, etc. It deals under section 351(1) The Bharatiya Nyaya Sanhita, 2023 (BNS)⁸.

2. **Bribery** is a very common kind of economic offence this is an act in which money, or any other valuable object is given or accepted, in expectation of or in return for favors related to say, employment opportunities, promotions, bureaucratic circumvention, etc. Government officials, politicians, members of

the executive body of the states and nation oftentimes give or accept bribes. It is a crime to both give and accept a bribe. Bribery covers under Section 7, 8, 9 & 12 of Prevention of Corruption Act, 1988.⁹ The Prevention of Corruption (Amendment) Act, 2018 introduced stricter penalties for bribery.¹⁰

3. **Credit card fraud** is an unauthorized access and use of a person's credit card to purchase something of value, or siphon money.

4. **Forgery** is passing off a fake negotiable instrument as genuine, so as to defraud or cheat the recipient.

5. **Insider trading** is when a person/employee, working at a company or institution has sensitive, confidential information related to the business, and uses it to trade in shares of publicly held corporations.

6. **Insurance fraud** is a kind of insurance, when the insurer defrauds the insured of his or her funds.

7. **Money laundering** is the investment or transfer of money from racketeering, drug transactions or other embezzlement schemes so that it appears that its original source either cannot be traced or is legitimate.

8. **Embezzlement** is when a person entrusted with the safekeeping of money or property, seizing it for his or her own benefit.

9. **Racketeering** is a broad term which covers any illegal business transaction done for personal gain.

8. The Bharatiya Nyaya Sanhita, 2023

9. Prevention of Corruption Act, 1988

10. The Prevention of Corruption (Amendment) Act, 2018

10. **Tax evasion** is the illegal hiding of income, which in turn allows persons to file lower tax returns, therefore enabling them to save money.¹¹

LAWS REGULATING ECONOMIC CRIMES:

1. Prevention of Money Laundering Act, 2002 (PMLA)

This act was enacted to fight against the criminal offence of legalizing the income or profits from an illegal source. It enables the Government or the public authority to confiscate the property earned from the illegal gained proceeds.¹² This act also aid us to prevent money laundering, channeling of money into illegal activities and economic crimes, confiscate property derived from money laundering, penalize offenders of money laundering offences and also establish an adjudicating authority and appellate tribunal to handle money laundering matters.^{13 14} It also helps in identification of clients, to maintain records and to provide information in a prescribed form to the Financial Intelligence Council (EIC), which is led by the Finance Minister.^{15 16}

11. Changing dimensions of economic crimes – Prashant Baviskar and Smriti Katiyar.
12. Prevention of Money Laundering Act, 2002 (PMLA)
13. "Anti-money laundering act kicks off". The Economic Times, [https://en.wikipedia.org/wiki/Prevention_of_Money_Laundering_Act,_2002#:~:text=Prevention%20of%20Money%20Laundering%20Act%2C%202002%20\(ISO:%20Dhana%2D,India%20\(FIU%2DIND\).&text=An%20Act%20to%20prevent%20land,connected%20therewith%20or%20incidental%20thereto.](https://en.wikipedia.org/wiki/Prevention_of_Money_Laundering_Act,_2002#:~:text=Prevention%20of%20Money%20Laundering%20Act%2C%202002%20(ISO:%20Dhana%2D,India%20(FIU%2DIND).&text=An%20Act%20to%20prevent%20land,connected%20therewith%20or%20incidental%20thereto.)
14. "Prevention of Money Laundering Act, 2002 – Overview". Archived from the original on 12 June 2008, Retrieved 25 April 2008, [https://en.wikipedia.org/wiki/Prevention_of_Money_Laundering_Act,_2002#:~:text=Prevention%20of%20Money%20Laundering%20Act%2C%202002%20\(ISO:%20Dhana%2D,India%20\(FIU%2DIND\).&text=An%20Act%20to%20prevent%20land,connected%20therewith%20or%20incidental%20thereto.](https://en.wikipedia.org/wiki/Prevention_of_Money_Laundering_Act,_2002#:~:text=Prevention%20of%20Money%20Laundering%20Act%2C%202002%20(ISO:%20Dhana%2D,India%20(FIU%2DIND).&text=An%20Act%20to%20prevent%20land,connected%20therewith%20or%20incidental%20thereto.)
15. Section 12 of PMLA, 2002, <https://cleartax.in/s/prevention-of-money-laundering-act-2002>
16. Prevention of Money Laundering Act, 2002 - History, Objectives, Features, Offences, Penalties & More!, [https://testbook.com/ias-preparation/prevention-of-money-laundering-act-pmla#:~:text=FIU%2DIND,Economic%20Intelligence%20Council%20\(EIC\).](https://testbook.com/ias-preparation/prevention-of-money-laundering-act-pmla#:~:text=FIU%2DIND,Economic%20Intelligence%20Council%20(EIC).)

2. The Bharatiya Nyaya Sanhita (BNS), 2023

This act includes several sections that address economic crimes such as section 111 of BNS explains about criminal breach of trust, forgery, counterfeiting of currency, financial scams, running Ponzi schemes, mass-marketing fraud, multi-level marketing schemes and large scale organized betting.¹⁷ Section 316 of BNS states crimes like criminal breach of trust which includes criminal breach of trust with property entrusted to a public servant, banker, merchant, factor, broker, attorney, or agent.¹⁸ Section 112 of BNS states about petty organized crimes which includes committing or attempting to commit a petty organized crime, punishment for imprisonment for a term of at least one year but not more than seven years and liability to fine.¹⁹

3. Prevention of Corruption Act, 1988 (Amendment 2018)

This act has made several changes to the Prevention of corruption act, 1988 which includes increased the minimum and maximum imprisonment terms for public servants and those who abet offences. The minimum term for public servants was increase from 6 months to 3 years, and the maximum was increased from 5 years to 7 years. The minimum term for abetment was also increased from 3 years to 7 years.^{20 21} It also added section that sets periods for imprisonment and a fine for commercial organization that consent to corrupt acts.²²

17. Section 111 of the Bharatiya Nyaya Sanhita (BNS), 2023

18. Section 316 of the Bharatiya Nyaya Sanhita (BNS), 2023
19. Section 112 of the Bharatiya Nyaya Sanhita (BNS), 2023
20. Section 12 of the Prevention of Corruption (Amendment) Act, 2018
21. Section 14 of the Prevention of Corruption (Amendment) Act, 2018
22. Prevention of Corruption Act, 1988 by Tushar Singh Samota from <https://blog.ipleaders.in/prevention-of-corruption-act/>

4. The Companies Act, 2013

Section 447 of the Companies Act, 2013 covers fraud, with punishments such as for large scale fraud which involves at least Rs.10 Lakhs or 1% of the company's turnover, and can result in imprisonment for 6 months to 10 years, plus a fine of at least the amount involved in the fraud. If the fraud affects the public, the minimum imprisonment is 3 years and whereas, in smaller scale fraud which involves less than Rs. 10 Lakhs or 1% of the company's turnover, and can result in imprisonment for up to 5 years or a fine of up to Rs. 50 Lakhs, or both.²³

5. The Income Tax Act, 1961

This act mainly focuses on taxation that contains provisions that can be utilized in the investigation and prosecution of economic crimes. Section 139 of this act mandates an individual and entity to file income tax returns. Non-compliance or filing false returns can be considered as an economic offence, especially if it involves hiding of income or tax evasion.²⁴ Section 143 deals with assessment procedures, which helps in revealing irregularities and it can also trigger for any further investigation into tax evasion or any other economic crimes.²⁵ Section 277 penalizes an individual who furnish wrong or false information of his/her tax returns i.e. money laundering and tax fraud.²⁶ Section 278 deals with abetment of false returns. If any individual includes another person to file a false return, it can be considered a serious economic offence,²⁷ and finally Section 281 also penalizes any individual who fails to comply with the notices or orders issued by the tax authorities.²⁸

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23. Section 447 of the Companies Act, 2013
 24. Section 139 of the Income Tax Act, 1961
 25. Section 143 of the Income Tax Act, 1961
 26. Section 277 of the Income Tax Act, 1961
 27. Section 278 of the Income Tax Act, 1961
 28. Section 281 of the Income Tax Act, 1961

6. The Securities and Exchange Board of India Act, 1992 (SEBI)

The act is an all-encompassing legislation for regulating the securities market in India. It prohibits trading in securities on the basis of unpublished price-sensitive information, price rigging or false or misleading information as well as fraudulent trading practices under Section 12A of the act.²⁹ The SEBI Act empowers the authority to take action against fraudulent practices like misrepresentation, manipulation, or other unfair practices in the securities market, as stated in Section 11 of the act.³⁰ Different provisions in SEBI Act and its rules lay down penalties for default like non-filing of returns, non-maintenance of records, and default in disclosure requirements.

7. The Benami Transactions (Prohibition) Act, 1988

This act also carries the name of Prohibition of Benami Property Transactions Act (PBPT Act). It is one of the Indian laws that intend to prevent the practice of buying property in another person's name as a way to escape ownership. The law was introduced to deter hiding ownership of assets, such as real estate, homes, or investments. The law shall make the practice of holding a property in another person's name so he does not have to face legal or financial liabilities.³¹

8. Foreign Exchange Management Act, 1999 (FEMA)

This act deals with Foreign Exchange Transactions. It aims to regulate and facilitate external trade and payments, promote the orderly development of the foreign exchange market, and prevent economic offenses related to foreign exchange. Section 4 of this act defines various offences which includes unauthorized dealing with foreign exchange, holding foreign exchange without declaration, contravention of regulations regarding foreign exchange transaction, and unauthorized borrowing or lending of foreign exchange.³² Section 4 (1) of this act deals with imprisonment up to 3 years and fine up to 3 times the amount involved in the contravention.³³

29. Section 12A of the Securities and Exchange Board of India Act, 1992 (SEBI)

30. Section 11 of the Securities and Exchange Board of India Act, 1992 (SEBI)

31. The Benami Transactions (Prohibition) Act, 1988

32. Section 4 of the Foreign Exchange Management Act, 1999 (FEMA)

33. Section 4(1) of the Foreign Exchange Management Act, 1999 (FEMA)

9. Black Money (Undisclosed Foreign Income and Assets) Act, 2015

This act aims at curbing black money held in foreign accounts. It also imposes a tax of 30% on undisclosed foreign income and assets which is explained under Section 4 of this Act.³⁴

10. Information Technology Act, 2000 (IT Act)

This act includes various provisions addressing economic crimes related to cyber activities. Some of the main sections are

- i. Section 65 of this act punishes individuals that intentionally or knowingly tamper computer source documents, which led to cause wrongful loss or damage.³⁵
- ii. Section 66 of this act deals with offences related to computers which includes hacking, unauthorized access, and causing damage to computer systems.³⁶
- iii. Section 66A of this act deals with punishment for sending offensive messages through communication services like email or social media.³⁷
- iv. Section 66B of this act deals with punishment for dishonestly receiving stolen computer resource or communication devices.³⁸
- v. Section 66C of this act deals with punishment for identity theft, which targets an individuals to steal their identity for fraudulent purposes.³⁹
- vi. Section 66D of this act deals with punishment for cheating by personation by using computer resource.⁴⁰
- vii. Section 66E of this act deals with punishment for violation of an individual's privacy right by penalizing the unauthorized interception or monitoring of communication.⁴¹

34. Section 4 of the Black Money (Undisclosed Foreign Income and Assets) Act, 2015

35. Section 65 of the Information Technology Act, 2000 (IT Act)

36. Section 66 of the Information Technology Act, 2000 (IT Act)

37. Section 66A of the Information Technology Act, 2000 (IT Act)

38. Section 66B of the Information Technology Act, 2000 (IT Act)

39. Section 66C of the Information Technology Act, 2000 (IT Act)

40. Section 66D of the Information Technology Act, 2000 (IT Act)

41. Section 66E of the Information Technology Act, 2000 (IT Act)

- viii. Section 66F of this act deals with punishment for cyber terrorism which involves using of computer system to threaten or cause harm.⁴²
- ix. Section 67 of this act deals with punishment for publishing or transmitting obscene material in electronic form.⁴³
- x. Section 67A of this act deals with punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.⁴⁴

11. The Banking Regulation Act, 1949

This act regulates the banking firms in India. Section 20 of the act has laid down strict restrictions on loans and advances under which a bank could ever grant such. It also aims at avoiding an improper use of funds and fraud. ⁴⁵ Section 21 of this act extends the power of Reserve Bank of India to issue directives with respect to banks regarding granting of loans and advances. This can help to monitor and regulate lending practices to mitigate the risk of economic crimes. ⁴⁶ Section 45J of this act deals with punishments for offences related to banking companies being wound up and it also includes with dealing of fraudulent activities and misappropriation of funds. ⁴⁷

12. Fugitive Economic Offenders Act (FEOA), 2018

This act was introduced to prevent economic offenders from evading the Indian legal system by staying outside of Indian Courts. This act allows special courts to seize assets and properties of economic offenders accused of offences exceeding INR 100 crores. A person is considered to be a Fugitive Economic Offender (FEO) if they have an arrest warrant issued against them for a specified offense worth more than INR 100 crores and have left the country and refuse to return to face prosecution. ⁴⁸

42. Section 66F of the Information Technology Act, 2000 (IT Act)

43. Section 67 of the Information Technology Act, 2000 (IT Act)

44. Section 67A of the Information Technology Act, 2000 (IT Act)

45. Section 20 of the Banking Regulation Act, 1949

46. Section 21 of the Banking Regulation Act, 1949

47. Section 45J of the Banking Regulation Act, 1949

48. Press Information Bureau, Government of India, Ministry of Finance, 22-April-2018, and "PRS | Bill Track | The Fugitive Economic Offenders Bill, 2018". prsindia. Archived from the original on 1 May 2018. Retrieved 1 May 2018

13. Central Bureau of Investigation (CBI)

CBI is a specialized agency meant for investigation of crime relating to corruption by Public Servants under the control of the Central Government, serious economic offences and frauds and sensational crime having inter-state or all-India ramifications. ⁴⁹

LANDMARK CASES UNDER ECONOMIC OFFENCES:

1. HITEN DALAL CASE ⁵⁰

Hiten P. Dalal was a broker involved in a securities scam at the beginning of the 90s. He was accused of cheating various banks and financial institutions by manipulating stock prices and promoting fraudulent transactions. The scams included misusing funds obtained from the State Bank of Saurashtra (SBS) and the other banks. He was arrested and booked under several offenses; cheating, forgery, and

criminal breach of trust. In 1997, a special court convicted him of these crimes and sentenced him to two years in prison. However, he challenged the verdict, and the matter faced quite some legal battles. The verdict and punishment by two years issued to Hiten P. Dalal were validated by the Supreme Court of India in 2001, thus closing the case.

2. HARSHAS MEHTA CASE ⁵¹

As a key stockbroker, Harshad Mehta had orchestrated the highest securities scam scamper through and in India. It stole stock prices by siphoning billions illegally out of myriad banks using bogus banking instruments. Generally, this Indian financial fraud caused sick damage to the Indian economy and an appalling erosion of public trust with the financial system. His actions led to investigation and prosecution, which landed him in jail on a number of counts. This case exposed serious loopholes in banking and regulatory systems in India and inspired extensive reforms to avert the occurrence of such scams in the future.

49. Central Bureau of Investigation (CBI) or

<https://cbi.gov.in/faq#:~:text=CBI%20is%20a%20specialized%20agency,state%2Fall%2DIndia%20ramifications.>

50. Hiten P. Dalal vs Bratindranath Banerjee on 11 July, 2001, AIR 2001 SUPREME COURT 3897

51. Dalal, Sucheta; Basu, Debashis (29 July 2014). *The Scam: from Harshad Mehta to Ketan Parekh Also includes JPC Fiasco & Global Trust Bank Scam* (8th ed.). Mumbai: Kensource publications.

3. KETAN PAREKH CASE ⁵²

Ketan Parekh, a stockbroker that used to be, has been up in the news for a stock market scam that rocked the Indian markets between 1998 and 2001. Through the banks where he was a director, for example, Madhavpura Mercantile Co-operative Bank, he borrow large sums of money from which he manipulate prices of certain companies' stocks, in public perception, popularly known as 'K-10' stocks. This tampering thus caused an undesirable collapse of the market in the year 2001. Parekh has always been convicted for several offenses regarding the scam. In 2008, the very first conviction carried a sentence of one year. Later, in 2014, the special CBI court convicted him for the act of cheating and sentenced him for two years of rigorous imprisonment. Parekh has continued to forge through troubles, troubles of the law, after completing the terms of imprisonment.

4. SARADHA CHIT FUND CASE ⁵³

The major political and financial scandal known as the Saradha Group financial scandal was triggered by the failure of a Ponzi scheme run by a group of about 200 private companies collected under the Saradha Group, which was popularly but incorrectly said to be running collective investment schemes, referred to as chit funds, in the eastern part of India. This Ponzi scheme promised high returns and gathered a lot of small investors because it was launched in early 2000s by an affluent businessman named Sudipto Sen. The essence of the scheme was that it promised great returns to investors while

using their money to pay off existing investors. However, the scheme collapsed in 2013, and millions of investors in this region lost all their savings. The issue actually led to widespread protest and political storm with corruption accusations and the involvement of political personalities with Saradha. Also, many arrests were made, including Sudipto Sen and ex-West Bengal minister Madan Mitra, for being involved.

52. Ketan Parekh vs. Securities And Exchange Board Of India on 14 July, 2006,

53. Agarwal, Abhyudaya; Satyaditya Singh Dhakare (5 June 2013). "What exactly happened in the Saradha Scam? Understanding chit fund, MLM, corporate deposits and collective investment schemes". Marketing and advertising law. Retrieved 13 June 2013.

5. VIJAY MALLYA SCAM⁵⁴

Vijay Mallya one of the most famous personalities in India, a businessman and a former Member of Parliament (Rajya Sabha). Vijay Mallya was a successful business tycoon and was the former owner of Kingfisher Airlines (defunct now), Royal Challengers Bangalore cricket team and former co-owner of Force India a Formula-1 team. He was also the Ex- Chairman of United Spirits and also had a business the Alcohol Industry. He was mainly accused of fraud and Money laundering of Rs. 9000 crores which were not paid back to banks from which he has taken loans. All these banks were led by the State Bank of India (SBI). Mallya was charged for fraud, money laundering, criminal conspiracy, and cheating. Organizations like ED, CBI, SEBI charged Mallya under different sections and Acts which are as follows:

Enforcement Directorate (ED): Section 3 (offence of Money laundering) and 4 (Punishment for Money laundering) of the Prevention of Money-laundering Act, 2002 for the loans taken by him. The amount was nearly Rs. 3,500 crores.

Central Bureau of Investigation (CBI): Sections 120B (Criminal Conspiracy) and 420 (Cheating) under the Indian Penal Code (IPC), 1860 and Sections 13(1) and 13(2) of the Prevention of Corruption Act, 1988 which deals with Criminal Misconduct by a Public Servant and Punishment for it.

Securities and Exchange Board of India (SEBI): Banned him from Accessing the Stock Market till 2021.

Vijay Mallya, to escape punishment and penalties from the allegations made against him by the above organizations, absconded himself (flew) to the UK and the Supreme Court of India declared him as a Fugitive Economic Offender under the Fugitive Economic Offenders Act (FEO), 2018.

54. State Bank Of India vs. Dr. Vijay Mallya, July 11, 2022.

6. NIRAV MODI CASE ⁵⁵

The Nirav Modi case happens to be one of the major financial scandals in India that relates to the fraudulent issuance of Letters of Undertaking (LoUs) from the Punjab National Bank (PNB). Nirav Modi was a well-known jeweler and was said to have colluded with several other associates to conspire with bank officials to get fraudulent LoUs of billions of rupees. The said LoUs were created for disbursing loans, which never were repaid by the companies said to be associated with Modi with overseas banks. The scheme was unearthed early in 2018, resulting in one of the biggest investigations by the Indian authorities. Nirav Modi and his companions fled India in a bid to keep themselves off the hook. The Enforcement Directorate (ED) kicked off proceedings against Nirav Modi under the Prevention-of-Money Laundering Act (PMLA), 2002, which deals with the offense of money laundering. Further, Central Bureau of Investigation (CBI) also initiated a case against Nirav Modi and other associates under various sections of IPC including these - cheating, criminal conspiracy, and forgery. Further, Nirav Modi was declared a fugitive economic offender by the Government of India under the Fugitive Economic Offenders Act, 2018, which provided for his assets in India and outside to be confiscated. India had also initiated extradition proceedings of Nirav Modi from the United Kingdom-arrested in March 2019-for the case. The India example really brought not just the banking system. The hypocrite of the Nirav Modi case represents the dominant case of financial fraud in India, involving bogus issuance of Letters of Undertaking (LoUs) false from the Punjab National Bank (PNB). Nirav Modi was a celebrity jeweler, and he and his other accomplices allegedly conspired with officials of PNB to procure fake LoUs worth billions of rupees, received from various overseas banks and never repaid. All this was discovered in early 2018 and led to a tremendous inquiry by the Indian authorities. He and his associates flew out of India to avoid prosecution. The Enforcement Directorate initiated steps against Nirav Modi under the act regarding money laundering offenses -the Prevention of Money Laundering Act (PMLA), 2002.

55. Behind the Façade: The rise and fall of Nirav Modi and the PNB Fraud case by Aman Srivastava and Mr. Sandeep Mishra

The Central Bureau of Investigation (CBI) has also registered a case against Nirav Modi and others under different sections of the Indian Penal Code (IPC), including cheating, criminal conspiracy, and forgery. Nirav Modi was declared as a fugitive economic offender by the Government of India under the Fugitive Economic Offenders Act, 2018-this provision permitted seizure of assets belonging to him in the country and outside. India, too, stepped in and proceeded to extradite him from the United Kingdom, where he was later arrested in March, 2019. The case of Nirav Modi has really shown the gaps in India's banking system as far as a regulatory control mechanism was concerned, apart from the need for international cooperation toward fighting financial crimes.

CHALLENGES IN ENFORCEMENT OF REGULATIONS FOR ECONOMIC CRIME:

The enforcement of economic crime regulations is a significant task because of the many sides of these offenses, the rapid growth of technology, and the improvement of novel styles of crimes. Several of the challenges include:

1. Highly Complex Economic Crimes:

Advanced Schemes: Economic criminal offenses tend to involve very sophisticated schemes operating in conjunction with multiple jurisdictions and complex financial instruments and legal structures.

Internationality: In their very nature these crimes span boundaries and make international cooperation in their investigation crucial and complicated as a result of difference in legal and investigation systems.⁵⁶

56. Framework for Countering Corruption and Economic Crime: Towards effective law enforcement by Gerhard Anders Nicholas Staite

2. Technological Advancements:

Digital Age Crime: Digital-age crime keeps unleashing new avenues for criminality, including cybercrime, fraud attached to crypto-currency, and online scams.

Progressive Strategy: The progress made in strategies adopted by criminals keeps advanced and makes it difficult for law enforcement to keep up.⁵⁷

3. Resource Constraints:

Resource Constraint: Most law enforcement agencies due to the limited budgetary allocation and lack of enough personnel. These restricted resources hinder the investigation and prosecution of complicated economic crimes.

Subject Matter Experts: This determines that the cases typically require a specialist subject matter expert, primarily in finance, accounting, and technology, which will most likely not exist in every jurisdiction.⁵⁸

4. Legal and Regulatory Obstacles:

Intricate Legal Frameworks: Much of economic crime is laden with complexity; consequently, the enforcement agencies have to battle their way through multiple and often overlapping legal and regulatory frameworks.

Regulatory Gaps: Sometimes gaps between legal regulations exist that can be exploited by criminals to escape detection.⁵⁹

57. Framework for Countering Corruption and Economic Crime: Towards effective law enforcement by Gerhard Anders
Nicholas Staite

58. Challenges for global financial institutions under conflicting legal regimes Britt Mosman, Laura Jehl, David Mortlock,
Joshua Nelson, and Kari Prochaska

59. Challenges for global financial institutions under conflicting legal regimes Britt Mosman, Laura Jehl, David Mortlock,
Joshua Nelson, and Kari Prochaska

5. International Cooperation:

Cross-Border Aspects: Efficacy of international cooperation is even greater where countries are investigating and/or prosecuting economic crime. However, jurisdictional disputes, language barriers, and differences in legal systems also become obstructions to the effectiveness of cross-national cooperation.

Data Sharing: There may be shared confidential personal and financial information across nations, but under many possible conditions, its exchange has serious practical complications, especially regarding privacy and data protection.⁶⁰

6. Public Opinion:

Lack of Knowledge: The public knows very little if not entirely ignores any risk associated with economic crime, making it difficult to gain public backing for enforcement activities.

Media Representation: The negative portrayal of the victims of economic crimes by the print media discourages reporting and further investigation.⁶¹

CONCLUSION:

Economic crimes in India threaten this nation's growth in terms of its economy and social well-being. The major crimes include corruption, tax evasion, cyber-crime, and money laundering. All these drain the country's resources and erode public confidence in its institutions. India has enacted several laws and created a specialized agency to fight these crimes. However, things continue to pose challenges with respect to preventing, detecting, and prosecuting these crimes. One of the major challenges is the nature of economic crimes; often there are very complicated schemes and sophisticated techniques, all difficult to unravel.

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In fact, it is not age-old methods of abusing people that are taking place these days under the name of economic crimes, but the newly minted ones are what are better known as cybercrime, crypto-currency, linked frauds, etc. This means that our investigators and law books have to keep changing as fast as these criminals do.⁶² Another significant issue is inadequate resources and training for law enforcement agencies to deal with the challenges. There are different specialized skills and knowledge required across jurisdictions for the investigation and prosecution of economic crime. Many times, these skills may not exist in the different jurisdictions. Budgetary constraints may also limit the law enforcement agencies' ability to combat such crimes effectively.⁶³ It is an international approach to cross-border economic crimes. But, the difference in legal systems, investigative procedures, and data sharing becomes a hindrance to the effective collaboration of countries. This situation further compounds the problems of extradition and asset recovery concerning fleeing offenders. Awareness and education for the general public will do a lot to prevent economic crimes. Learning about the risks associated with fraud along with the signs can help everyone guard themselves and contribute toward combating such offenses. The strong and independent judiciary will ensure fair trials and timely access to justice in cases of economic crimes.⁶⁴ Diamond, final paragraph that brings to a conclusion in the fight against economic crimes in India. It concerns a wide-ranging main action involvement of creating a strong legal framework, efficient law enforcement, international cooperation, office awareness, and latest technology-improved individual measures. There is vertically buried into these problems for addressing large-scale initiatives by which India can handle and create a safer economic environment, if not an absolute paradise, of economic prosperity.

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