

*Changing patterns of white collar
crime, cyber crime and justice.. An
over view*

By

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**Winner of US State Dept award - Anti Human
Trafficking Hero of the world 2010**

ఎంత సుపాదింబనా నీచీబి వాళ్ళకూ,
బిట్టా వాళ్ళకూ తెలియకుండా పోచో
మంత్రమేదైనా ప్రసాదింబండి
శాపిమీ!

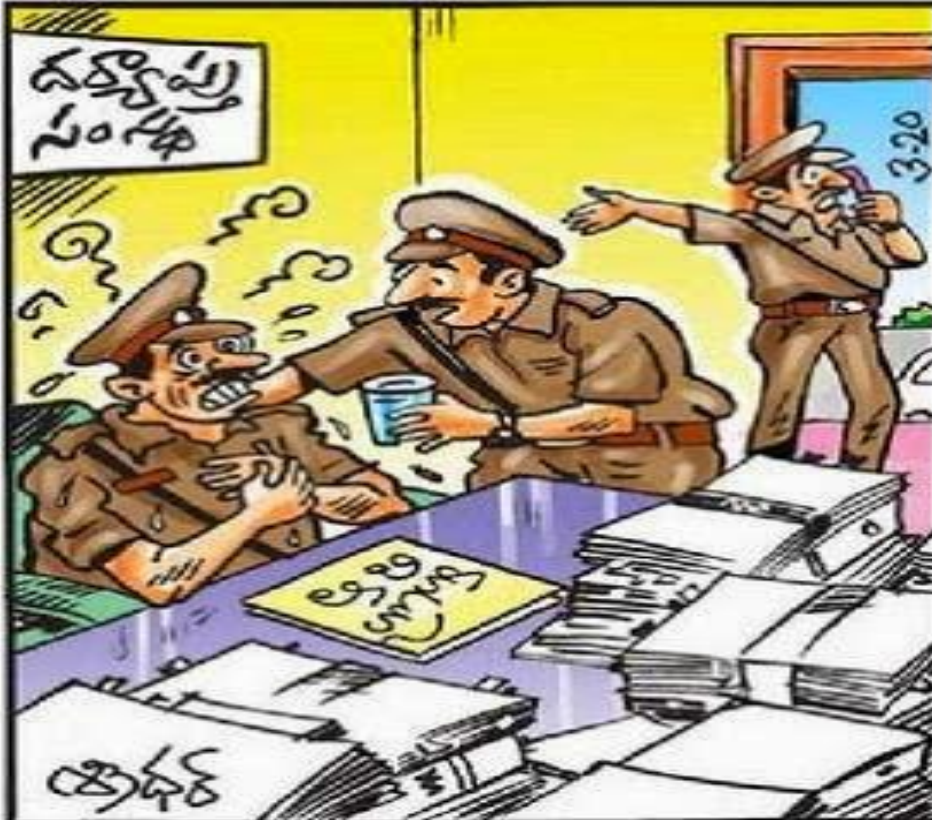


Give me a boon to hide my unaccounted wealth from CBI / IT

శాపిమీ!

Voluminous cases. 1000s of documents

ఇబ్బనంగతి!



Police officer worried at receiving a new voluminous case for investigation.

Subordinate Officer calling a Doctor and tells the senior officer not to worry

ఈ కేసు మనకి ఇవ్వకపోవచ్చు సార్... మీరు

W.C & Cyber Crime has world Wide network. Out of Country investigation is a necessity . MLATs / MOUs are the prelude for such investigations.



White collar crime basically means **the crime committed by the educated people belonging to a higher class of society during the course of their occupation**. ... It can also be called as the crime of educated and professional elites.

Fraud: Fraud is a broad term that encompasses several different schemes used to defraud people of their money. ...
Insider trading. ...

Ponzi scheme. ... Multi-level marketing (MLM), also called network marketing or pyramid selling, is a controversial marketing strategy for the sale of products or services where the revenue of the MLM company is derived from a non-salaried workforce selling the company's products or services, while the earnings of the participants are derived from a pyramid-shaped or binary compensation commission system.

An MLM strategy may be an illegal pyramid scheme.

Identity theft and other cybercrimes. ...

Embezzlement. ...

Counterfeiting. ...

Money laundering. ...

Espionage.

Narinderjit Singh Sahni And Anr vs Union Of India And Ors on 12 October, 2001

In an application for anticipatory bail the gravity of the offences involved ought to be the prime consideration since thousands of investors have lost their lives' savings, after being duped by the petitioners - It is an "**economic murder**" of an entire community of people and thus has necessarily to be dealt with utmost severity.

Additional Solicitor General contended that the gravity of **massive economic genocide** cannot be belittled by terming it as a major offence of cheating or depriving someone of his property.

The victim is deprived of his **economic life**.

The **crime** is no less heinous than putting an end to the life of a person.

A large number of suicides which follow such **white collared crime** is indicative of the magnitude of the **crime** involved.

Therefore, the fact that a maximum punishment of 7 years is prescribed for a single offence of cheating cannot be pressed into service by the petitioners for seeking relief.

The activities of the concerned economic offenders are as a matter of fact spreading in several States.

- Very often after starting their operations in one State and by luring investors of high returns, to finance those returns fresh funds are raised in some other State.
 - To pay the promised high returns in the second State, funds are raised in a third State and so the channel continues.
 - Each act of cheating, therefore, **constitutes a separate offence** and the attempt to say that it is only one advertisement which results in to multitude of consequential deprivation of property is an endeavour to mis-lead this Court.
 - If an accused facing a charge under Sections 406, 409, 420 and 120-B is ordinarily not entitled to invoke the provisions of Section 438 of the Criminal Procedure Code unless it is established that such criminal accusation is not a bona fide one, it is difficult to conceive that an accused who is involved in thousands of cases in different parts of the country by cheating millions of countrymen, can be given benefit of the privilege of anticipatory bail as a matter of routine.
 - In our considered opinion, it would be a misplaced sympathy of the Court on such while-**collared** accused persons whose acts of commission and omission has ruined a vast majority of poor citizens of this country.
-

White collar offenders escape before LOC

Look out circulars are issued by JD Immigration at the instance of LEAs..IPC & other crimes are crimes against the State

Minister of State for Finance Anurag Singh Thakur, has said that, "Central Bureau of Investigation (CBI) has apprised that 38 persons involved in the cases registered by **CBI related to financial irregularities with banks fled the country during 1.1.2015 to 31.12.2019.**"

The Minister of State has also added that Enforcement Directorate has gone to the Interpol for Red Corner Notices against 20 people and extradition requests were sent in respect of 14 people to various countries while applications under Fugitive Economic Offenders Act, 2018 have been filed against 11 people.

The long list of fugitives includes Vijay Mallya accused of defrauding banks of ₹ 9,000 crore; Nirav Modi, Mehul Choksi and family accused of ₹ 12,000 crore fraud and the Sandesaras accused of a ₹ 15,000 crore fraud.

Two directors of Ram Dev International Limited who has fled the country after defrauding a six banks consortium led by State Bank of India (SBI) to the tune of ₹ 414 crore and another case in July of Manjit Singh Makhni Director of Punjab Basmati Rice Ltd who had fled to Canada after defrauding a Canara bank-led six banks consortium of around ₹ 350 crore.

Bank frauds in 1st quarter

- During the first half of the financial year 2021-22, the reported number of fraud cases in various banking operations increased to 4,071 as against 3,499 in the year-ago period, the RBI's Report on Trend and Progress of Banking in India 2020-21 showed.
 - However, the amount involved in frauds in various banking operations based on the date of reporting declined to Rs 36,342 crore during April-September 2021 from Rs 64,261 crore in the corresponding period of the previous financial year.
 - In the financial year 2020-21, the reported number of cases of frauds declined to 7,363 (Rs 1,38,422 crore) from 8,703 cases (Rs 1,85,468 crore) in 2019-20
 - The recoveries during the same period amount to a little over Rs 1,000 crore, **less than one per cent** of the outflow.
-

'salus populi est suprema Lex'
Welfare of the people is Supreme Law.

- ✓ Public service delivery
 - ✓ Public satisfaction
 - ✓ Sacred duty of state to protect people.
 - ✓ Victim Support / Relief
-

Forensic Audit :

Forensic Audit involves accounting and auditing procedures *to discover, analyze, organize, and present evidence of a financial nature for use in a legal, administrative, or other official proceedings.*

Forensic Accounting provides an accounting analysis that is acceptable before the Court and which will form the basis for discussion, debate and ultimately dispute resolution.

Forensic Accounting – What it involves

Forensic means the art and skill of

- a. investigating the transactions,
- b. related events and
- c. going to background behind the facts.
- d. expert understanding of the underlying subjects

Forensic Accounting' involves using techniques of Forensic Accounting, Auditing, Legal and related principles.

It may be grounded in any of the above functions/fields.

Forensic Accounting' Performance or non-performance is dependent on

a. the right knowledge mixture of Technology, Accounting, Auditing,

b. Legal, Analytical, Investigation, Communication and Presentation Skills.

c. Forensic Accounting", provides an accounting analysis & conclusive proof that is admissible to the court which will form the basis for examination and ultimately successful conduct of trial.

d. Forensic accounting involves looking beyond the numbers and grasping the substance of situations.

Forensic Accounting is useful in

Investigation of

- a. Financial Frauds
 - b. White collar Offences – Tax Defrauders
 - c. Tracing illegal/slush funding through NGO/Commercial organizations
 - d. Money laundering
 - e. Business valuations
 - f. Divorce proceedings and matrimonial disputes
-

Forensic Accounting is useful contd...

- g. Personal injury and fatal accident claims
 - h. Professional negligence
 - i. Insurance claims evaluations
 - j. Arbitration
 - k. Partnership and Corporation disputes
 - l. Shareholder disputes (minority shareholders claiming)
 - m. Civil and criminal actions concerning fraud and financial irregularities.
-

Why white collar Crime????

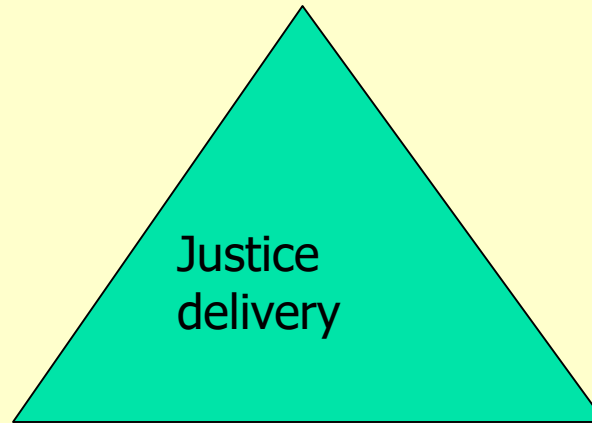
- ✓ Intelligent way of defrauding people before they realise.
 - ✓ Avariciousness of the people
 - ✓ Temptation
 - ✓ Cyber world – global village
 - ✓ Money transfer is instantaneous
 - ✓ Attachment , forfeiture, auction options are available only in a few Acts –but cumbersome
 - ✓ Courts try to avoid speedy trials.
 - ✓ Lack of understanding as criminal law does not encompass forensic Auditing- Court timings are flawed.
-

Calculation of 90 days period for filing charge sheets in certain cases:

The computation of period of 90 days should exclude the date on which accused was remanded to judicial custody (Ravi Prakash Sing Vs. State of Bihar AIR 2015 SC 1294)

The Key is..

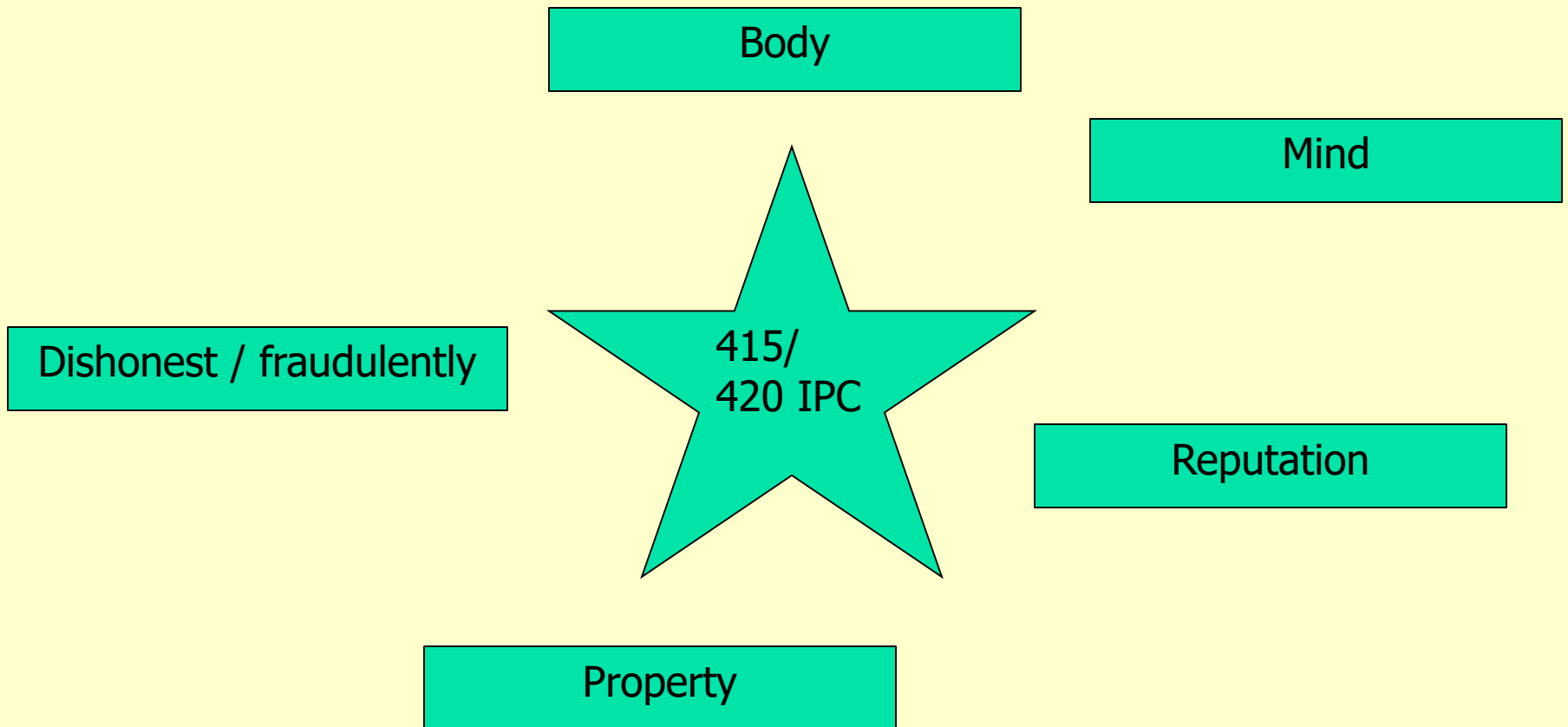
Prevention



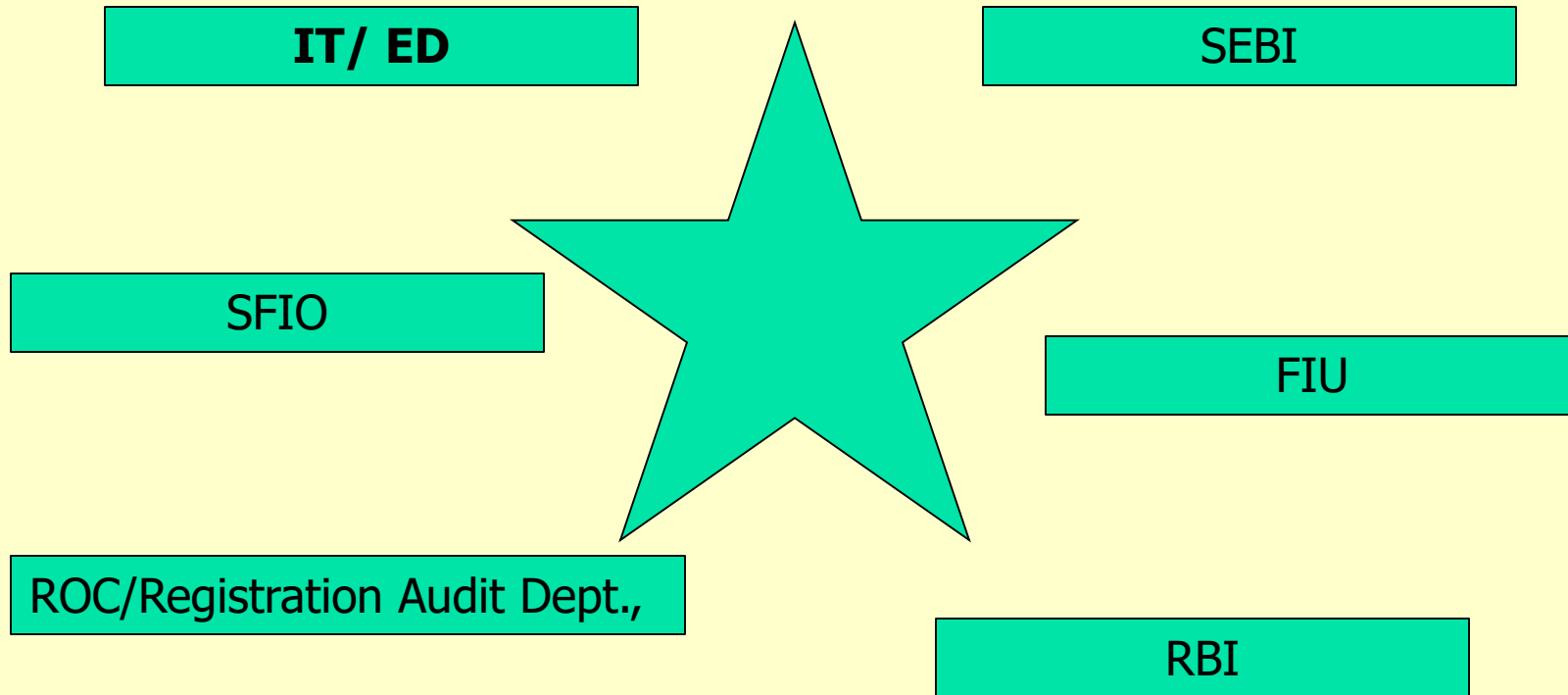
Prosecution

Investigation

Cheating (damage/ harm to) .



Investigation - Supporting Institutions



Securities and Exchange Board of India

1. **SEBI** is responsible for
 - ✓ the issuers of Securities
 - ✓ the investors
 - ✓ the market intermediaries'.
 - ✓ **SEBI** has introduced rolling cycle of T+2 since 2003. (i.e. Settlement is done in 2 days after Trade date.)
 2. **SFIO** (**Serious Fraud Investigation Office** 2003)
(under the ministry of Corporate Affairs)
 - ✓ Major Fraud Probes in coordination with income Tax and CBI
-

SFIO Contd....

- ✓ Multi Disciplinary Organization for detecting and prosecuting or recommending for prosecution of white collar crimes / frauds. with experts from Financial Sector, Capital market, Accountancy, Forensic Audit, Taxation, Law, IT, Company Law, Customs and Investigation.
 - ✓ Four Regional **SFIO** Offices at Mumbai, kolkata, Hyderabad and Chennai.
-

3. The **Directorate of Enforcement** (ED 1957) (Dept., of Revenue).
- ✓ Is Economic Laws Enforcement Agency fighting economic crime in India.
 - ✓ Responsible for enforcing economic laws and fighting economic crime in India.
 - ✓ Enforces FEMA 1999 and PMLA 2002
 - ✓ Five regional offices at Mumbai, Chennai, Chandigarh, Kolkata and Delhi.
 - ✓ Zonal Offices are at Ahmedabad, Bangalore, Kochi, Panaji, Guwahati, Hyderabad, Jaipur, Jalandhar, Lucknow, Patna, and Srinagar.
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4. **Registrar of Companies** (ROC) 1956. (Ministry of Corporate Affairs)
 - ✓ Deals with the administration of Companies Act, 1956/ 2013.
 - ✓ 22 Registrars of companies operate in all major States.
 5. **Financial Investigation Unit** (FIU) 2004. (Ministry of Corporate Affairs)
 - ✓ Responsible for receiving, processing, analyzing and disseminating information relating to "Suspect Financial Transactions :
 - ✓ Collects cash Transaction Reports (CTRs)
 - ✓ Cross Border wire Transfer Reports (CBWTRs)
 - ✓ Reports on purchase or sale of immovable properties (IPRs).
-

- ✓ Suspicious Transactions Reports (STRs)
 - ✓ Members are drawn from CBDT (Central Board of Direct Taxes) CBEC (Central Board of Excise and Customs, RBI, SEBI and IB.
 - 6. **FEMA (Foreign Exchange Management Act) 1999**
(Replaced FERA)
 - ✓ All offences regarding foreign exchange are civil offence
 - ✓ Facilitate external trade and payments
 - ✓ To promote the orderly development and maintenance of Foreign market in India
 - ✓ ED enforces FEMA
-

Why it happens

- ✓ We have no mechanism to forewarn us that a W.C. crime is likely to happen.
 - ✓ Even if we know, without solid proof we cannot act..... we will be blamed for interfering.
 - ✓ Suspicious Transactions Reports (S.T.Rs) generated by FIU are not enquired into quickly.
 - ✓ PSIs, PIs & courts do not have indepth knowledge
 - ✓ We have preventive law for preventing bodily crime, property crime but not white collar crime.
 - ✓ Inadequate Knowledge of Letter rogatories (116A, 166A 166 B Cr.PC), LOC, RCN, 188 Cr.PC (investigation abroad)
-

Sources of prevention :

Sec 149 Cr.PC –Potent Weapon

- ✓ Make a GD entry at PS level. Watch for Inaugurations by Political big wigs – Ethical cover.
 - ✓ Acceptance of gifts by companies -??
 - ✓ News paper advertisements ??
 - ✓ Chain mechanism (prelude to MLM)
 - ✓ Initial interaction with CID/ RBI/ Banks/ ED/ Registration department F.I.U. etc.,
 - ✓ Watch `cool cats` turning into bright stars.
 - ✓ Watch for large ques in front of `new business offices`
-

Augusta (Helicopter) West land VVIP helicopter case. - FIR 12.03.2013 charged 01.09.2017 regarding Rs. 3700 crore scam

- ✓ 30,000 pages charge sheet Retd. Air chief Marshal S.P. Tyagi, Air Marshal J.S. Gujral & 10 others u/s 420, 120B IPC r/w PC Act.
 - ✓ **Allegations:** Accused considered Augusta west land in lieu of bribes by not only 'lowering' the service ceiling requirement of the helicopter from 6000 meters (19,686, feet) to 4500 meters (14, 764 feet) but also revised the operational requirements to ensure that Augusta west land got the deal.
-

Augusta Case Contd.....

- ✓ Rs. 450 crores bribery money was routed through a web of companies abroad and in India on the pretext of engineering and consultancy contracts. Money trail in the British Virgin Islands, U.K. Mauritius, Singapore, UAE and Tunisia.
-

Why Courts shy away??

- ✓ Point systems for disposal of cases.
 - ✓ A HB case trial can be completed in 2 hours whereas a 420 IPC takes 20 Hours ??
 - ✓ For Ex: Augusta Helicopter case having 30,000 pages charge sheet. Luckily it is special Court. Imagine if it is filed in a regular Jurisdictional Court !
-

Indian Evidence Act- is the key

- ✓ Sec. 8 :Motive, preparation and previous and subsequent conduct .
 - ✓ Sec.14 : Facts showing existence of State of mind, or of body of bodily feeling.
 - ✓ Sec: 27 While in Police custody, information that relates distinctly to the fact discovered, may be proved.
 - ✓ Sec: 32 Statement written or verbal of relevant fact, made by a person (i) who is dead or (ii) who can not be found or (iii) who has become incapable of giving evidence or (iv) whose attendance can not be procured without an amount of delay or unreasonable expense are RELEVANT.
-

IND EVI Act, Contd.....

32(2) when it is made in the course of business

(a) any entry or memo made by him in books kept in the ord. course of business

or

(b) in the discharge of professional duty

or

(c) of an act written or signed by him of the receipt of money, goods, securities or property of any kind

or

(d) of a document used in commence written or signed by him

IEA Contd...

- ✓ “ Court must satisfy that the statement of deceased was not as a result of either ‘tutoring’ or prompting or a ‘product of imagination’, and that the deceased was in a ‘state of mind and’ intrinsic value of truthfulness of such statement ” --- Apex Court.
 - ✓ Sec 34: Entries in books of account (incl. Electronic form) regularly kept in the course of business are relevant.
 - ✓ Sec 35 : An entry in any public or other official book, register, electronic record stating a fact in issue or relevant fact and made by a public servant in the discharge of his official duty.
-

IE Act Contd..

- ✓ Sec. 45 : Relevancy of opinion of Experts :
 - ✓ Sec. 60 Oral evidence must be direct
 - S** Could be Seen
 - H** Could be Heard
 - P** Could be perceived
 - O** Could be Opinion
 - ✓ Sec.62 : Primary evidence – the document it self is produced for inspection.
 - ✓ Sec. 65 B : Admissibility of Electronic Records.
 - ✓ Sec. 311 A Cr.PC hand writing / Specimen signatures of accused
-

Supreme court judgment in a gang rape case..

Shimbu and Babu Ram vs State of Haryana (Crl.Appeal Nos.1278-1279 of 2013- SLP (Crl) No. 1011/2012) of Supreme Court of India

Highlights :

- Gang rape of 16 years victim in Haryana dt.28/12/95 (5 AM) A1-Shimbu & A2-Babu Ram kidnapped her and kept her on 28th & 29th and raped her repeatedly
 - On 30/12/95 reported in PS Narnaul Chaudhary vide Cr.No.195/95 u/s 376 (1) (g), 366, 342, 363, 506 r/w 34 IPC
 - Addl. Sessions Judge Narnaul convicted A1 & A2 for 10 years RI. (dt.31-3-98).
-

Nature and gravity determines the sentencing by courts

- Punjab and Haryana High Court on appeal by the accused, confirmed the order but reduced the sentence.
 - S.Court says nature, gravity, manner and circumstances of offences, character, antecedent and personality of accused decide sentencing policy.
 - “Sentence to commensurate with crime committed” (Kamal Kishore Vs State of HP (2000) 4 SC 502, on 3 Judge Supreme Court Bench ordered that the incident occurring 10 yrs ago and the accused and victim have settled in life is no special reason for reducing the statutory minimum sentence).
-

- Rape is a heinous crime, a crime against society, a crime against human dignity, one that reduces man to an animal.
 - To view such an offence (once it is proved) lightly is itself an affront to society. Subordinate Courts discretion by itself does not justify its exercise.
 - The long pendency of the criminal trial or the offer of the rapists to marry the victim are not relevant reasons. Nor is the age of offender by itself an adequate reason.
-

Contd....

- The Punjab High Court's justification that they reduced the sentence as the accused respondent was **unsophisticated and illiterate citizen belonging to a weaker section of the society**", that he was "a chronic addict to drinking" and had committed rape on the girl while in State of "intoxication" and that his family comprising of "and old mother, wife and children" were dependent upon him. These factors in our opinion did not justify recourse to the proviso to Sec 376 (2) (G) IPC to impose a sentence less than the prescribed minimum.
 - Supreme Court said that Courts must hear the loud cry for Justice by the society in cases of heinous crimes of rape on innocent helpless girls of tender years as in this case and respond by imposition of appropriate sentence by the Court.
-

Contd...

- The show of mercy in this case of a heinous crime would be travesty of Justice and the plea for reduction of sentence by High Courts exhibits **stark insensitivity** to the need for **proportionate punishments** to be imposed sustained by the trial Court orders of imprisonment under gang rape.
-

M/s Satyam Computer Services and Ltd.-Fraud Case

- ✓ Causing loss to the investors to the tune of Rs 14162 crores.
 - ✓ Company secured illegal gains to the tune of about Rs. 2743 crores.
 - ✓ C.No.2/2009 u/s 406, 420, 467, 471, 477A IPC of CID PS dt: 09.01.2009, Andhra Pradesh.
 - ✓ First 40 days CID AP laid foundation for offences mentioned above
 - ✓ CID constituted with officials from IT, Forensic Auditing MDIT (Multi Disciplinary Investigation Team)
-

u/s 406 IPC Criminal Breach of Trust (CBT)

- (i) There should be an entrustment by one person to another of the property (or) with any dominion over property
- (ii) Such entrustment must be in trust
- (iii) There must have been misappropriation (or) conversion to his own use by the person who received the property in trust.
- (iv) Such conversion or retention of the property must be against or in violation of any direction of Law. (or) of any legal contract made touching the discharge of such trust.

“Being in any manner entrusted with property”

Sec.420 IPC :

(1) Deception of any person

(a) fraudulently or dishonestly inducing that person

(i) to deliver any property

(ii) to consent that any person shall retain any property: or

(b) intentionally inducing that person shall to do or omit to do anything which he would not do or not omit if he were not so deceived.

which act or and omission causes or is likely to cause damage or harm to that person body, mind, reputation or property.

Sec. 420 IPC contd....

- ✓ Direct proof of '*mens rea*' is seldom available and it has often to be inferred from the surrounding circumstances.
 - ✓ Mere breach of contract can not give rise to criminal prosecution on for cheating unless fraudulent, dishonest intention us shown at the beginning of the transaction.
-

Sec. 467 IPC: Forgery of Valuable Security (up to 10 yrs and fine

- (i) Fraudulently signing a document with an intention (*mens rea*) of causing it to be believed that such document was signed by another or under his authority.
- (ii) Making of such a document or electronic record intention to commit fraud or that fraud may be committed.

Sec. 471 IPC: Using as genuine a forged document or electronic record.

(i) fraudulent or dishonest use of a document as genuine.

(ii) The person using it must have knowledge or reason to believe that the document is a forged one.

Sec. 477: IPC (7 years and fine)

Falsifications of accounts :

1. Person coming within the purview must be a clerk, an officer, or a servant or **acting** in that capacity.
 2. He/she must wilfully with intent to defraud
 - i. destroy, alter, mutilate, or falsify any **_book, paper, writing valuable security** or account which belongs to or is in the possession of his employer or which has been received by him for or on behalf of his employer or
 - ii. Make or abet the making of any false entry in or omit or alter or abet the omission or alteration of any material particular from or in any such book, paper, writing valuable security or account
-

Perpetration of the fraud (Satyams Case)

1. By inflating the revenue of the company through false sales invoices and
 2. Showing corresponding gains by forging the bank statements **with** the **connivance** of the statutory and Internal Auditors of the company.
 3. The annual financial statements of the company with **inflated revenue** were Published for several years leading to higher price of the script in the market.
 4. Innocent investors were lured to invest in the company.
 5. Attempts were made to conceal the fraud by acquiring the companies of the *Kith and Kin*
-

2009 January FIR , 7th April 2009 charge sheet
filed against
10 accused - A fraud of 7123 crores

Feb 17, 2011: USA class action suits settled for 125 million US dollars.

July , 15 2014 : SEBI slaps Rs. 1,850 crore fine on chairman and bars him from market for 14 yrs.

April, 2015 : special CBI Court sentenced the chairman and 9 others to 7 years in jail and fined Rs. 5 crores each.

Chairman and others served 31 months jail term during trial.

Satyam case contd..

Motive : wanted to be among the top 4 firms in IT industry

“They rode a tiger, not knowing how to get off without being eaten”.. Courts comments.

'Protection of Depositors'

- ✓ Like AP Protection of Depositors of Financial Establishment Act 1999, various states like
 - ✓ T.N Depositors Act, 1997. (march, 2011- Supreme Court full Bench upheld that the Act is constitutional).
 - ✓ Maharashtra Act, 1999 (MPEDA) (S.C held in May, 2011 the Act is constitutional),
 - ✓ Odessa Act, 2000,
 - ✓ Karnataka Act 2004. have the depositors' protection Acts.
-

'Financial Establishment'

- ✓ a person or group persons accepting deposits under any scheme or arrangements or in any other manner.
 - ✓ Defined 'Money circulation scheme' means any scheme for making a quick or easy money - a promise to pay money'
 - ✓ Defined 'Deposit'
 - ✓ Defined Competent Authority
 - ✓ Attachment of properties by Government
 - ✓ Auction through auction body.
 - ✓ Pro-rata distribution to the depositors.
-

Sequence of Investigation

1. Register FIR including Sec.420 and sections of Depositors Act and constitution a special team.
 2. Identify the movable and immovable properties with details – obtain documents immediately.
 3. Write letters immediately to Registration Department not to entertain registration, to Bankers to freeze accounts.
 4. Record statements of some of the depositors including audio video copies from them.
 - Investigation Officer to put up list of properties to be attached before the competent authority.
 - Submit Government ad-interim attachment orders before the special Court to make them absolute.
-

Contd...

- Obtain Spl. Court orders making them absolute.
 - C.A writes to Spl. Court to constitute an auction committee for auctioning the attached properties followed by registration to the buyers.
 - 'Open auction' to be conducted
 - Pro-rata distribution of auctioned money to the deposition through Bank A/c transfer.
-

Note: Auction / Criminal action are independent of each other.

- ✓ Take up attachment of the property to the Transfers.
 - ✓ It is a continuing offence.
 - ✓ Appeal: Lies with High Court within 30 days of Spl. Court orders.
 - ✓ Warrant case procedure for trail
 - ✓ S.C. – “The depositors Act is a salutary measure which was long over due to deal with the ‘scamsters’ who have been thriving like ‘locusts’ in the Country.
-

Counterfeit currency cases

- ✓ F.I.C.N Investigation (pl recall demonetization of Nov 8th2016)
 - ✓ Investigation Officer has to follow “the Investigation of High quality Counterfeit Indian Currency offence Rules”
 - ✓ Investigation Officer to invoke Sec.15 r/w 16 of the unlawful Activities (Prevention) Act, 1967 r/w 2012 Amendment Act on receipt of FSL report that such notes are of High quality Counterfeit Indian currency of more than 1 lakh and follow Rule 6.
 - ✓ IGP rank officer can order for investigation u/s 15 of ULA (P) Act.
 - ✓ Sec. 489A, B, D are cognizable and non-bailable .
-

Quid pro quo cases

- ✓ The Government may resort to
 - (a) allotment of lands for SEZs,
 - (b) Contracts for irrigation projects
 - (c) Special relaxations / permissions for real estate venture, mines etc.,
 - ✓ Individuals resort to money laundering the bribe money by routing it through various investments made by them in his companies at a Higher premium.
-

Bails –what trial courts should do.....

- ✓ Supreme Court (Justice P. Satha Sivam, M.Y.Eqbal dt: May,9th, 2013)
 1. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail.
 2. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.
 - 3.
-

Bails contd....

- While granting bail, the court has to keep in mind the nature of accusations,
 - the nature of evidence in support thereof,
 - the severity of the punishment which conviction will entail,
 - the character of the accused,
 - circumstances which are peculiar to the accused,
 - reasonable possibility of securing the presence of the accused at the trial,
 - reasonable apprehension of the witnesses being tampered with,
 - the larger interests of the public/State and other similar considerations.
-

Prize chits & money circulation scheme banning Act 1978

- ✓ Objectives: to curb the menace of money circulation schemes or PONZI Schemes, (Ex: Amway India, Herba Life, Hindustan Unilever Network Ltd., Forever Living Products, Speak asia online, ramsurvey, Jeevanseva etc.) in the name of selling products and services.
 - ✓ Sec. 2 (c) Money circulation scheme (MCS)
 - ✓ Any scheme for making quick or easy money or
 - ✓ for the receipt of any money or
 - ✓ valuable thing
 - ✓ as the consideration for a promise to pay money
-

Prize Chits Contd...

- ✓ on any event or contingency relative or
 - ✓ applicable to the enrolment of members into the scheme
 - ✓ whether or not such money or thing is derived from the entrance money of the members of such scheme or
 - ✓ Periodical subscriptions.
-

Sec. 2 (e) Prize chits Act

- ✓ includes any transactions or arrangement under which a person collects
 - ✓ whether as a promoters, formers, agent or in any other capacity ..monies in one Lump-sum or instalments.
 - ✓ by way of contributors or subscriptions or by sale of units, certificates or other instruments or
 - ✓ in any other manner or as membership fees or admission fees or service or service charges to or
 - ✓ in respect of any savings mutual benefits, thrift or
 - ✓ any other scheme or arrangement or
 - ✓ income accruing from investments or other use of such monies for all.
-

Vijay Malya

- ✓ ED Files a case of siphoning off Rs.450 crores to foreign loaction. SBI and 17 other, Banks approach DRT (Debt Recovery Tribunal) against king fisher Air lines.
 - ✓ CBI registers - a case against Vijay Malya for allegedly cheating a consortium of nationalised Banks to the tune of Rs. 6,027 crores by not keeping commitments to repay lones taken for King Fisher Air lines - on receipt of a complaint from SBI u/s 420 IPC r/w 120 B IPC.
 - ✓ **Accused** : King Fisher Airlines , United Breweries' Holding Ltd,
 - ✓ PNB, IDBI, Bank of India, Bank of Baroda, Central Bank of India, Corporation Bank., SB Mysore, IOB, Federal Bank, PN & Sindh Bank, Axis Bank are cheated
-

Narco terrorism.. Neighbouring countries

- According to a report by the **United Nations Office on Drugs and Crime (UNODC)**, opium production in Afghanistan has crossed 6,000 tons for the fifth consecutive year.
 - The reported rise in global opium prices has resulted in the exponential production of opiates increasing by 8%.
 - The Taliban, cash-strapped and still looking to establish a semblance of order in the country they captured in August 2021, could indeed be looking to generate revenue from the illegal cash crop, as cases of smuggling and seizures of large consignments of drugs in India have started increasing, indicating a turn towards this trend.
-

World drug report 2021

- Around **275 million** people used drugs globally in the last year. Over **36 million** people **suffered from drug use disorders**.
 - Rise in the use of cannabis during the pandemic has been reported by most countries.
 - Non-medical use of pharmaceutical drugs has also been observed in the same period.
 - The latest global estimates say, about 5.5 per cent of the population between 15 and 64 years have used drugs at least once in the past year.
 - Over 11 million people globally are estimated to inject drugs – half of them have Hepatitis C.
 - Opioids continue to account for the largest burden of disease-linked to drug abuse.
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Narco terrorism contd..

- Narco-terrorism was first used in 1983 by the former President of Peru, Belaunde Terry to describe campaigns by drug traffickers using terrorist methods such as the use of car bombs, assassinations and kidnapping against the anti-narcotics police in Colombia and Peru.
 - Though initially used in the context of drug trafficking related terrorism in South America, the term has come to be associated with terrorist groups and activities around the world and more so in the Central and South-East Asia.
 - As the term itself suggests, narco-terrorism combines two criminal activities, drug trafficking and terrorist violence. Narco-terrorism is motivated mainly by economic reasons as it helps the terrorist organizations raise huge sums of money with minimum cost for their activities.
 - Thus the political, ideological, religious and the ethno-nationalist motives generally associated with terrorism are secondary to the economic gains associated with it.
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Golden triangle & golden crescent

- The **Golden Triangle** is the area where the borders of Thailand, Laos, and Myanmar meet at the confluence of the Ruak and Mekong rivers. The name “Golden Triangle” was coined by the CIA.
 - Along with Afghanistan in the **Golden Crescent**, it has been one of the largest opium-producing areas of the world, since the 1950s. Most of the world’s heroin came from the Golden Triangle until the early 21st century when Afghanistan became the world’s largest producer. This space overlaps three nations, **Afghanistan, Iran, and Pakistan**, whose mountainous peripheries define the crescent.
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India & narco terrorism

- **State-sponsored Terrorism:** Narco-terrorism is a key component of Pakistan's state-sponsored cross-border terrorism, which is used to fund and conduct asymmetric warfare against its neighbors.
 - **Porous Borders:** India has a 15,106-kilometre porous border and a 7,516-kilometre coastline. China, Pakistan, Bhutan, Myanmar, Afghanistan, Nepal, and Bangladesh are all on the same side of those lengthy boundaries.
 - **Inefficient Policymaking:** Terrorist and militant actions are a problem in India, which are supported by the neighboring countries. It's no surprise that few Indians see the importation of ganja, opium, hashish, and other drugs as a concern because secessionism, terrorism, and insurgency have occupied the thoughts of policymakers and the general people.
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Contd..

- **India's Position between Triangle and Crescent:** India is inconveniently placed between the Golden Crescent and the Golden Triangle, two of the world's most active hotbeds of illegal drug trafficking. The Golden Triangle is defined as the area where Thailand, Laos, and Myanmar intersect. Until the early twenty-first century, when Afghanistan overtook the Golden Triangle as the world's leading producer, the Golden Triangle produced the majority of the world's heroin.
 - **Terror Funding:** The lion's share of the source of terror funding in Kashmir emanates from across the border in Pakistan through its notorious agency ISI. The ISI generates its finances through narco-financing which comes from the control of narcotics trade in the AfPak region.
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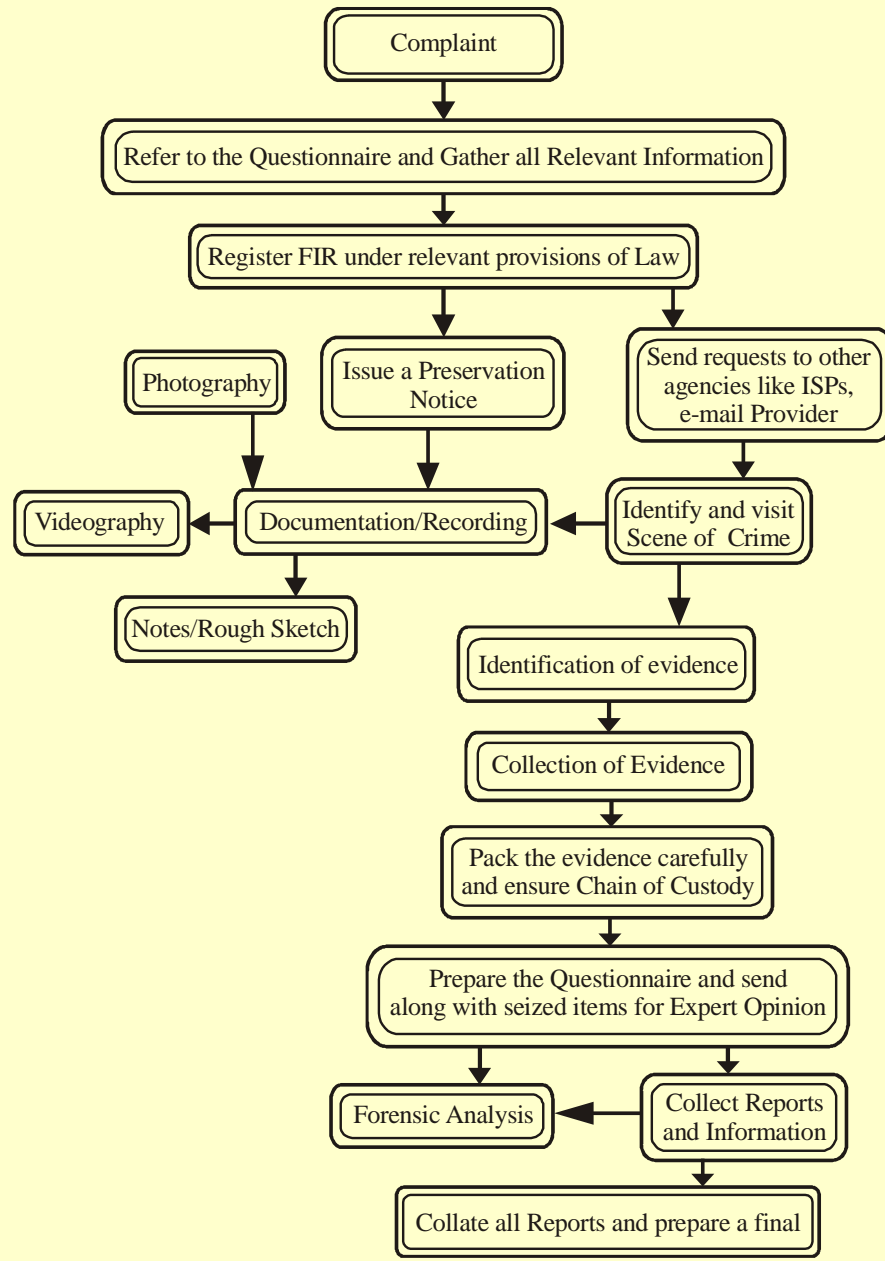
Indias issues

- **Pakistan as a Major Culprit:** Pakistan has the highest per capita heroin addiction rate in the world. The ISI pumps drugs in Jammu and Kashmir with twofold intentions. Drug-paddling funds terrorist activities; on the other, there is a strong correlation between receptive attitudes towards Jihadism and drug use.
 - **Northeast Region:** Drugs, sourced from Myanmar and Bangladesh, has a direct bearing on the funding of terror and extremist activities in the northeast. A series of intermittent seizures in India of 'yaba' tablets that were meant for Bangladesh, indicates the existence of multiple exit points along the border in Tripura, Assam, and Meghalaya. The proceeds of this drug-trade find its way to insurgent-outfits.
-

Legal regime..

- **Narcotics Drugs and Psychotropic Substance Act 1985:**
Indian Narcotic Drugs and Psychotropic Substances Act, 1985:
Provides to carry out controlled delivery mechanisms measures as it deems necessary or expenditure for the purpose of preventing and combating abuse of narcotic substances. Provides minimum punishment of 10 years.
 - **Narcotics Control Bureau (NCB):** Nodal agency for enforcement of laws concerning narcotic drugs and psychotropic substances.
 - **India signed bilateral agreements with USA, UK, Myanmar, Afghanistan, UAE, Mauritius, Zambia, and the Russia for 'drug control'.**
 - India is a signatory of **UN** and **SAARC** convention on narcotic drugs and psychotropic Substances.
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CYBER CRIME



Various Cyber crimes

(Sec.66, 67 of the IT Amendment Act, 2008 deals with penal provisions for committing any act defined u/s 43 of IT(A) Act.

Sec. 66 presupposes that acts are done with dishonest and fraudulent intentions.

- ✓ On line lottery frauds / on line job frauds
 - ✓ Online harassment
 - ✓ Online cheating (matrimonial / advertisement sites)
 - ✓ On line appointments in multi-national companies
 - ✓ Phishing frauds (Banks) IT / Gmail/yahoo etc., ask for your data.
-

Various cyber crimes contd...

- ✓ ATM, Debit & Credit card frauds:
(Ask for PIN –Personal Identification Number
C V V- Card – Verification Voucher)
 - ✓ Hacking cases
 - ✓ Pushing obscene content
-

face book , instagram, whats app

- Using Social Media such as Face Book, Instagram, whatsapp, telegram etc., the criminals are contacting the female victim as unknown persons or as known persons similar to victims friends name and make the victim believe the online person
 - and start sharing the personal and private material later the criminal cheats the victim for physical relationship or
 - Fraudulent money transactions.
 - Males pretend as females and even post female photos as of theirs to dupe the prospective victims.
 - Target females whose spouses are working after physical tracking
-

On line job portals

- Viewing the online job portals criminal understands the need of the job to the female victim and start sending the fake job opportunities and make them believe it to be genuine and defraud them for money.
 - Some time they even conduct physical interview with fake offices of reputed name.
 - Take caution deposit and don't revert back. Change their phone numbers etc. use fake aadhar cards or of those from remote villages .
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Fake profiles

- By creating fake profile in the popular matrimonial web sites who are searching for the second marriage make them as situational victims and cheat them with money or personal privacy to black mail them.
-

on line domestic help

- In the name of online domestic help ads, related to plumbing, carpenter, electrician, beautician etc., physically they visit houses and robs the inmates.
 - They select isolated houses or noon timings to commit offences
-

Fake call centers

- There are several fake call centers existing who will keep their phone number as the contact number in the google search engine of the popular banks and collect the security credentials of individuals when they call them thinking that the number is genuine and do the online fraudulent transactions and cheat them.
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Jharkhand jamtara gang

- The Delhi Police Cyber Cell busted a gang of cyber cheats operating from Jharkhand's Deoghar-Jamtara-Giridh-Jamui belt.
 - The masterminds have been identified as Ghulam Ansari alias Masterji (24), a resident of Jamtara, and Altaf Ansari alias Rockstar (20), a resident of Deoghar,
 - The accused used to cheat people by impersonating bank employees, telecom service providers, e-wallet companies, etc., adding that they were nabbed after multiple raids over the last seven days.
-

Jharkhand jamtara gang..

- Police received several complaints where multiple modus operandi were revealed. The complainants were duped of several lakhs. One of those complainants was a Delhi-based doctor.
 - While looking online for the customer care numbers of a private bank, she came across the fake website created by the cyber criminals and they managed to induce her to install a remote access app and transferred Rs 10 lakh out of her account fraudulently,
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Duping Anganwadi workers of Rs10 crores

- Another module was identified as operating from the Jamui region. The accused contacted Anganwadi workers and took details of pregnant and lactating women from them, the police said.
 - Thereafter they contacted these women and told them that they would be receiving a link for receipt of Rs 5,000 under the Pradhan Mantri Matru Vandana Yojana.
 - But instead of crediting, large sums of money got **debited** from their accounts on clicking on the link.
 - In less than two years, Altaf alone has managed to dupe people from across the country of around Rs 10 crore, the police added.
-

Chittoor police (AP) bust UP cyber gang

- One Sandip Kishan (45), a senior assistant working with Government Hospital in Chittoor, and his wife had taken some life insurance policies with four nationalised banks and a couple of private firms. During the last two years, they could not pay the premiums due to a lack of sufficient funds owing to the COVID pandemic.
 - Three months ago, the couple started getting repeated phone calls from strangers, who introduced themselves as officials of the Reserve Bank of India (RBI).
 - The **accused who had access to the information about the couple's policies** and numbers reportedly convinced the duo, saying that they could redeem the amount paid for taking policies along with interest.
 - To get back their money, the couple were reportedly asked to pay the GST, and some left out instalments of premiums. The couple transferred ₹23 lakh over 36 transactions **to several account numbers**. As there was no response from the callers later, the
 - couple contacted the bank officials concerned and soon realised that they were conned by the fraudsters.
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Special party ..enormous efforts

- on a complaint from the couple in the first week of December 2021, a 15-member special party was formed to probe the case.
 - Based on preliminary information, the origin of the calls were detected at Noida in Uttar Pradesh.
 - “After a week-long gruelling investigation there, Chittor police team could detect the involvement of about 20 accused in the crime.
 - They suspect the gang’s role in several such crimes all over India .. Who must have hacked the insurance data base & defaulter list.
 - Their *modus operandi* was to identify poor people and make them open bank accounts, which would be kept under their (gang’s) control.
 - Their targets would be made to deposit the amounts in the manipulated accounts. The accused included commission agents and some youth clandestinely recruited to make conversation with their targets.
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Cyber Terrorism

- ✓ Using IT which has both National and International Ramification perpetrating frauds on the economic, industrial and Strategic institutions.
 - ✓ Sec. 70 A: Indian Computer Emergency Response Team (CERT) as National Nodal Agency.
 - ✓ Sec. 78 : Inspector of Police to be the Investigating Officer.
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ROAD MAP

- ✓ Educate
 - ✓ Empower
 - ✓ Entrust
 - ✓ Engage
 - ✓ Ensure
 - ✓ Establish
 - ✓ Evaluate
-

Actionable Research Changed the Social Fabric of Indian Society

The future
is in your
hands,
join hands
together
to bring
offenders
to Justice



Thank You for your kind attention