

INVESTIGATION AND PREVENTION OF CORPORATE FRAUDS IN INDIA

Introduction

Sociologists and criminologists Edwin Sutherland was the first person to popularise and define the term White Collar crime in 1939. He defined White Collar Crimes as such a crime committed by a person of respectability and high social status in the course of his occupation. He also included big corporations and companies committing crimes under the definition. When a person of high social status and respectability commits a crime during his business it is approximately known as White Collar Crime or Corporate Crimes or Corporate fraud. The citizens of India are in broad arrangements concerned about the basic values and fundamental principles of a socialistic society. After independence, there has a structural change in the Indian society. This change is prominently visible political, social, cultural and economic values in one side and the values and life in another side. Today's society is more active and accessible than in past society. Peoples have become tech-savvy and money-making machines. Growth of population and industrialization has devalued the basic ethics, morals and value of society. White Collar crimes or Corporate frauds are not new to the society but those crimes are never traced or recorded due to some historical reasons and inadequate stringent legislations. The proverb "King can do no wrong" or "Samrath ko nahi dos gosai" has been accepted for a longer period. Sutherland made a study of 70 big corporations and he found that all the big and large companies are considered as white-collar criminal under the definition of Sutherland . In India, Santhanam Committee reported the licenses of the value of 70 million rupees were obtained wrongfully or wrongly fully utilized by 700 firms from the year 1958 to 1962 by committing forgery, fraud, violating export and import regulations, etc. ¹ In other words, White Collar criminal or criminal committing corporate frauds are from the upper class (economically) position in the society but tax evasion can be committed by lower strata category which also included under White Collar Crime.

With the development of modernization, industries and economy the concept of Corporate crimes increased. The big corporations replaced the individual entrepreneurs as a consequence of which was the concentration of economic and political powers in the hands of a few persons engaged in the affairs of the company. ²The problem of Corporate Crimes in India has become very acute in terms of variety and extent. To check and control, the crime government has constituted Santhanam Committee (1964), Vivian Bose Commission, Wanchoo Committee, Jain Commission (1991), Vohra Committee. From various committees and reports and recommendations of different committees, the causes of Corporate crimes were identified. The causes are general public attitude, unlimited desires of an individual, industrial growth, human greed, capitalist economy, inadequate laws, the doctrine of caveat emptor. Again it also revolves around one of the causes which are regarding economic prospective i.e human wants are unlimited. The basic principle of criminal liability revolves around the basic Latin Maxim *actus non facit reum, nisi mens sit rea*. It means to make one

¹ Alvesalo, A., Tombs, S., Virta, E. and Whyte, "Re-imagining crime prevention: controlling corporate crime?" (2006) *Crime, law and social change*, 45(1), pp.1-25.

² D. Silviya Dixina & S. Indrapriya, "A Study on Corporate Crime in India"(2018), *IJLMH*, ISSN: 2581-5369

person liable one must prove that act or omission has been committed which is forbidden by law and has been done with a guilty mind. ³The biggest problem to impose criminal liability on corporations was establishing the guilty mind (mens rea) as one of the essential ingredients of criminal law.

Corporate criminal liability in India

Many discussion and decision were made and controversy around on whether the company being a juristic person or artificial person and incapable of being imprisoned. In most of the cases, pecuniary punishment is the only remedy to determine the liability for corporate crimes. In *Standard Chartered Bank Vs Directorate of Enforcement* ⁴ overruled much decision and held that “there is no immunity to the companies from prosecution merely because the prosecution is in respect of offences for which the punishment prescribed is mandatory imprisonment and fine. Supreme Court in *R . Kalyani Vs Janak C. Mehta and Ors* has held that if a person thus has to be proceeded with as being vicariously liable for the acts of the company, the company must be made an accused. In any event, it would be a fair thing to do so, as legal fiction is raised both against the company as well as the person responsible for the acts of the company”. Courts also relied on the doctrine of Direct Liability. The doctrine explains how individuals held criminally liable for the commission of frauds in the company or corporations. The Law on Corporate Criminal Liability is, however, is not confined to general criminal law rather it extends to a plethora of statutes and provisions.⁵

A company cannot be sent to jail and if a fine is to be paid or imposed it diminishes both the money available to pay the wages and salaries of all the remaining employees and the profits available to pay all the existing shareholders money. Hence, the effect of the only available punishment is deflected from the wrongdoer personally and distributed among all the innocent parties who supply the labour and the capital that keep the company solvent.

Statistics and reports indicate that Corporate Crimes or Corporate frauds are progressively increasing day by day and the rate of committing the crime will continue until the criminals find the new areas of exploitation. However, the problem of an effective control mechanism of corporate frauds remains unsolved. Corporate frauds are the result of planned effort and lack of spontaneity that generally accompanies traditional crimes.⁶ Corporate and financial crimes are not traceable easily because of technical and complex nature. In India, the crime statistics provided in Crime in India prepared and compiled by National Crime Records Bureau, Ministry of Home Affairs Government of India rarely provide any information regarding the extent of corporate crimes , financial crimes . ⁷The only possible sources from where information can be collected are from the reports and finding prepared by the Government of India and Committees and Newspapers. From those sources, we can say corporate crimes existed in all professions and occupation in society. Rohinton Mehata rightly said “ The precise statement regarding the extent of White Collar Crimes is impossible. Such crimes go undetected, unprosecuted or unpunished. Therefore the statistical figures available regarding white

³ Angira Singhvi, “Corporate Crime and Sentencing in India: Required Amendments in Law” (2006) , International Journal of Criminal Justice Sciences Vol 1 Issue 2

⁴ AIR 2005 SC 2622

⁵ Pradip Ghose, “Criminal Laibilities of Corporate Entities”(2017) ,Lexis Nexis

⁶ V.S Khanna, Corporate criminal liability: What purpose does it serve”. (1995) *Harv. L. Rev.*, 109, p.1477.

⁷ P H Bucy, “Corporate ethos: A standard for imposing corporate criminal liability”(1990) *Minn. L. Rev.*, 75, p.1095.

collar crimes and consequent convictions, represent a picture far from the truth. Gross forms of fraud may be easily detected but it is difficult to deal with the subtler form of fraud which flourishes in many areas of business and profession. It is not possible to present to compile quantitative data regarding white Collar crimes rate and therefore, it is not possible to make accurate comparisons of the total criminal behaviour of the classes”

Laws relating to investigation and prevention of Corporate Crimes in India

The Ministry of Corporate Affairs is concerned with the administration of a variety of legislation for the control and prevention of Corporate Frauds and also exercises supervisory power on the three professional bodies in the corporate sector and recognised offices. Ministry plays a vital role in maintaining transparency and accountability in the working of the corporate sector and investigating procedure under various legislations. Ministry is also concerned about the protection of investors and creditors and other stakeholders of the company at various levels.

LEGISLATIONS REGULATING CORPORATE CRIMES

COMPANIES ACT, 2013

The corporate sector is mainly regulated by the Companies Act, 2013. Several provisions have been provided by the Act, 2013 for regulating the day to day affairs of the company. For the first time, Companies Act, 2013 has incorporated punishment for the offence “Corporate Fraud” taking into consideration the growth rate of corporate crimes. Section 447⁸ of the Companies Act, 2013 defines corporate fraud and punishment for the crime under the Act. The definition is not comprehensive but inclusive which includes only the affairs of the company or the body corporate or corporations. The term fraud not only includes any act but also the omission to act, concealment of any fact and abuse of the status of any person. Such an omission, act or concealment can pertain to any person himself or by him with the connivance of any other person in any other manner. In the case of *Barendra Kumar Ghose AIR 1924 Cal 257*, it was held that the legal consequences of an act and of omission being the same, if an act is committed partly by an act and

⁸ Punishment for Fraud.

447. Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be guilty of fraud ¹[involving an amount of at least ten lakh rupees or one per cent. of the turnover of the company, whichever is lower] shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud:

Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

¹Provided further that where the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to ⁴[²[fifty lakh rupees]] or with both.]

Explanation.—For the purposes of this section— (i) “fraud” in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;(ii) “wrongful gain” means the gain by unlawful means of property to which the person gaining is not legally entitled;(iii) “wrongful loss” means the loss by unlawful means of property to which the person losing is legally entitled.

partly by omission, the consequences will be the same as if the offence was committed by an act or by an omission clause. It not a substantive offence. It implies that when an offence is an effect partly of omission, it is one offence only. Corporate frauds are often committed by the insiders with the help and support of unscrupulous professional and lack of non-monitoring and supervision by the Government agencies. Below explained is the graphical representation of the offence Corporate Fraud under the Companies Act, 2013

The main idea of incorporating such provision under the Act is to punish the persons or individuals involved or engaged in committing such offence. The Act, 2013 does not define the term person but the term person is defined under Indian Penal Code, 1860. Every person who is involved in committing the crime is liable for punishment without any discrimination. But still, criminal courts cannot prosecute any proceedings against certain categories of the person like – President and Governors, foreign sovereigns and companies or corporations. Companies are excluded because of their artificial nature. Criminal courts are exempted to award imprisonment to any company but the fine can be imposed on the company. The Companies Act, 2013 provides any person found guilty of fraud in the company will be liable for imprisonment for a term 6 months which may be extended to 10 years and fine will be imposed taking into account the amount of money involved in the commission of fraud. The fine amount shall not be less than the amount of money involved in the fraud but it can be more as per the extent of fraud committed. If any corporate fraud involves public interest, the term of imprisonment shall not be less than three years. If any fraud committed in the company by any person where the fraud amount is ten lakh rupees or one per cent of the turnover of the company, the punishment prescribed under the act will be five years imprisonment and fine which may extend to fifty lakhs rupees.⁹

SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)

The Securities Exchange Board of India was established under the SEBI Act,1992 to protect the interest of the investors in securities and to promote the development of and to regulate the securities market. The act aims to avoid the commission of crimes and scams and other manipulations in the securities and capital market in India. Corporate Governance plays a vital role in keeping a check on the companies management strategy. Security and Exchange Board of India (SEBI) has been a regulator for the securities market. Few sections under SEBI Act 1992 empower SEBI to take measures against fraudulent and unfair trade practice and insider trading. SEBI is one of the most powerful regulatory authorities for the securities frauds. Section 12 A¹⁰ and Section

⁹ "Fraud under Companies Act,2013", (R & R Associates , 24th September 2015) < <https://www.rna-cs.com/fraud-and-the-companies-act-2013/> > accessed on 11.05.2019

¹⁰Section 12 A - **Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.**

12A. No person shall directly or indirectly

- (a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;
- (b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognized stock exchange;
- (c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;
- (d) engage in insider trading;

15¹¹ of SEBI Act,1992 Clause 49 of the Listing Agreement under the SEBI Guidelines, provides the code of conduct to be followed by the companies through an audit committee to oversee the financial reporting and other management practices which are the major source of corporate fraud. Clause 49 of the Listing Agreement provides guidelines for Board of Directors, Audit Committees, Subsidiary companies, Mandatory disclosures by the Company and its officers and accountability leading to better oversight mechanism. SEBI has the power of investigation to identify the irregularities and deviance of rules and regulations by the entities or companies which in respect to offences like price manipulation, creation of an artificial market, insider trading, public issue related irregularities, take over violations and other types of misconducts.¹² SEBI has the power of the civil court to try cases and award penalties which may exceed to crores of rupees.

RESERVE BANK OF INDIA

Reserve Bank of India is the apex bank of the country and it holds multi-disciplinary functions relating to the financial market in India. Its function includes the management and supervision of currency and the payment mechanism and foreign exchange transactions. RBI policies and regulation proved sufficient enough to provide a stable economy. I regard to Corporate Frauds, Reserve Bank of India issue KYC (Know your Customer) Guidelines and anti-money laundering system to curb the menace of black money. The vanishing Companies are not defined under the Companies Act,2013 and are referred by the Reserve Bank of India to the Economic offences Wing of the concerned State Government to investigate the case and take legal and pecuniary action under the Central criminal laws. Under the Reserve Bank of India Act, 1934 the companies registered as NBFCs (Non-Banking Financial Companies) are also held liable for fraud. In these cases, Reserve Bank of India issues prohibitory orders to restrain accepting deposits or alienating the assets and simultaneously criminal proceeding was initiated.

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f)acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognized stock exchange in contravention of the regulations made under this Act.]

¹¹ Section 15 - **Accounts and Audit.**

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor- General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

¹² Ms. Shweta Wadhvani & Dr. Hema Menon , “Corporate Frauds: Emerging Issues And Preventive Strategies” (2017) Bharati Law Review

SERIOUS FRAUD INVESTIGATION OFFICE (SFIO)

SFIO is a multi disciplinary investigating agency established under Section 211 of the Companies Act, 2013. The function of SFIO is to investigate into the affairs of the company involving scams, accounting frauds, auditing frauds, violations of rules and regulations under the Companies Act. The SFIO investigating team consist of experts from the capital market, banking sector, general law, company law , forensic audit , information technology and taxation etc. The Investigating Agency has also the power to arrest if any person found guilty of fraud under the Act. SFIO takes up matter for investigation where the matter involves complexity and have interdepartmental ramifications, multidisciplinary aspects, the public interest is involved to a larger extent. Satyam Scandal is one of the landmark case investigated by Serious Fraud Investigation Agency and submitted the report. Corporate Affairs Secretary Injeti Srinivas said the process was on to further professionalise and streamline the SFIO. "Corporate frauds are very complex. The whole challenge is in getting quality people with domain expertise (for the SFIO). The strength also has to be increased significantly. There is a proposal to increase it from 133 to close to 350,"¹³ SFIO pending cases goes on increasing every year. Every year 20 to 30 cases were added to the list of investigating matters. Due to inadequate staffs, infrastructure and technical updating of the software and systems. The matters relating to corporate frauds where a large amount of money is involved are kept under investigation. SFIO has its office at New Delhi . In the year 2013 a training centre named as Computer Forensic and Data Mining Laboratory (CFDML) was established where the centre provides support and services to the officers and staffs of Serious Fraud Investigating Office regarding the investigation. SFIO usually faces a problem relating to the investigations to be taken by the agency or the State officials like State Police Department. There arises the confusion of the SFIO whether the investigation to be done by the State Government and the Central Government and that affects the fair investigation process and it takes more time to complete the investigation.

NATIONAL COMPANY LAW TRIBUNAL (NCLT)

NCLT is a quasi-judicial authority established under the Companies Act, 2013 to handle corporate disputes and other kinds of disputes. NCLT has also provided the power to grant relief for class actions suits , refusal to transfer shares in the company, mismanagement, directors liability, winding-up process. It has the power to award pecuniary damages and penalises for the wrong or offence committed by the officers of the company. The Tribunal is not bound by any strict procedures rather the matter can be decided following the principles of natural justice.

MONEY LAUNDERING ACT,2002

Money Laundering is a process where the illegal proceeds of the crime are transformed into legitimate money. This process is mostly followed by big corporate, businessman and government officials. Money laundering occurs in many countries. In India, the offence of money laundering is regulated by the Money

¹³ Government to restructure Serious Fraud Investigation Office; may increase manpower to 350” Indian Express (New Delhi, 8 March 2020)

Laundering Act,2002. The offence of money laundering is regulated by the Foreign Exchange Regulation Act ,1973 and Money Laundering Act,2002. The offence is investigated by Directorate of Enforcement (ED). Criminals are continuously looking for new and innovative routes to launder money .¹⁴ Reserve Bank of India issued master circular in regard to KYC norms and anti money laundering standards / (CFT) combating of financing of terrorism where banks are advised to follow certain procedures for customer identification for the opening of any type of bank accounts in all the nationalised and private banks.¹⁵ Through this process, the Government can keep a vigil and monitor on the transaction of all the accounts if anything found inappropriate. Money Laundering is another category of corporate fraud where the illegal money is converted into legal proceeds.

One of the most famous case of money laundering is Iqbal Mirchi of the “D”company. The Enforcement Directorate came into light the Rs 3000 crore global money-laundering ring allegedly his family members and his associates. Iqbal Mirchi is the right hand of Pakistan based terrorist Dawood Ibrahim. Mirchi who died in 2013 had laundered funds and moved through hawala routes to purchase huge lands in more than 10 countries. Enforcement Directorate through investigation registered a case under Foreign Exchange Regulation Act, 1973 where the agency reported some building was sold in Mumbai with fictitious names by Mirchi family members and some front companies in violation with FEMA rules and RBI guidelines. ED has informed the Reserve bank of India to compile the records in the name of Mirchi and his family members and also issued notice to the family members. The ED has handed over the matter to a special team constituted for further investigation.

FUGITIVE ECONOMIC OFFENDERS ACT,2018

The corporate world has faced many scams and frauds which affected the economy and society. To curb the fraud, Fugitive Economic Offenders Act,2018 was enacted. The main objective of the Act is to discourage the fugitive economic offenders from violating the process of law in India by residing outside the jurisdiction of Indian courts to maintain the legal process and rule of law in a regular process. ¹⁶The Act provides eligibility to declare any individual as a fugitive economic offender by the Special Court and subsequently to attach the property of the offender, disallow civil claims and bar the jurisdiction of the Civil Court.¹⁷ The FEO Act 2018 has the power to confiscate foreign properties with a letter of request to other foreign countries. The Act does not require a search warrant or seizure to investigate the matter or for any necessary investigation.¹⁸Though the Act has pros and cons , the act is strong enough to declare the individual as a FEO and confiscate the property (includes India and outside India) which is highly required so that the offender won't be able to enjoy the fruits of the black money he/she earned from the commission

¹⁴ Zagaris, B. and MacDonald, S.B., 1992. Money laundering, financial fraud, and technology: The perils of an instantaneous economy. *Geo. Wash. J. Int'l L. & Econ.*, 26, p.61.

¹⁵ Paridhi Saxena, “Money Laundering In India”available at http://www.nja.nic.in/4.1.%20Paper-%20Money%20Laundering_1_%20Paridhi%20Saxena.pdf

¹⁶ Mithun B. Shenoy,“Fugitive Economic Offenders – A serious threat to world nation” Taxguru (Kerala, 20 March 2020)

¹⁷ Anveksha Padhye,“Fugitive Economic Offenders Ordinance, 2018 – Analysis” (2018) *Journal Of Legal Studies And Research*, The Law Bridage Group

¹⁸ Sapna Kataria, “India set global narratives on Economic Offenders”(2019) - *International Journal of Research and Analytical Reviews* , ISSN 2349-5138

of fraud or scam. Vijay Mallaya and Nirav Modi are the two famous Corporate Fraud offenders have been declared as “Fugitive Economic Offenders”.

REASONS FOR POOR INVESTIGATION AND CONVICTION IN CORPORATE FRAUDS

Corporate crimes are not easily traceable due to their complex and technical nature. Most of the corporate crime are well planned and committed by skilled and intelligent persons. These crimes are not only harmful to the individuals or the stakeholders of the company but also the society and economy in large. Because of this complicated nature of the crime, the investigation of the crime is a big problem. Though the crime is committed by high ranked professionals and reputed members of the society, the investigation needs to be done through a step by step procedure, enquiries, well-planned exertions and with an analytical approach. The whole investigation process is required to be done in a secret and confidential manner and adequate precaution to be taken while conducting the investigation. The course of the investigation never run smooth and fair due to financial affluence of the offender, political link and interlocutory petition in the courts. These offenders easily influence political parties to avoid accurate investigation and no convictions. They very often try to manipulate the pieces of evidence, delay trials in the courts and put the process of the investigation for a longer period. Another major reason for the poor investigation is due to the technical nature of the crime. Most of the officers in the investigating team are not well equipped and skilled with the technical aspects and they are not that much trained to handle such complicated crimes. It is a matter of fact that investigators are ill-trained and poorly equipped to combat the task of complex corporate frauds.¹⁹ Many of the investigating officials are handicapped by corruption and political nexus and these officials did not want to investigate the crime in depth. To prevent the crime, the best possible mode is through prompt cognizance, effective investigation and speedy punishment . Due to the political interference and the functioning and working of the investigation process never gets the desired objective. This is not only the position in the State but also in Central Level. In 2005, Shri U.C Mishra , Director , Central Bureau of Investigation contended in The Times of India how the investigating agencies work under the pressure of the government and other nexus. The moment a case is registered in the police station or any investigating agency and reported by media immediately phones of influential persons started ringing to exert pressure in the form of request. In India, most of the investigation work is done by police or the government investigating agencies. The investigating agencies and the police required to improve their effectiveness through various training programmes, aware of the procedural laws and amendments, skills on technical frauds and international co-operation.

Corporate frauds have become a matter of grave concern for the current government. The real solution lies in effective enforcement agencies. Corporate fraud is invading the political and economic sectors of our nation and cause a great danger to the entire social texture and threat to public welfare activities. These crimes involve the best brains in the country to manipulate the accounting activities and do illegal methods of working and to omit laws to run illegal activities safely. Due to this high profile political lobby and high business community, all the strong legislation enacted to prevent economic crimes thrown into the dustbin.

¹⁹P.K Gupta and S. Gupta, “ Corporate frauds in India–perceptions and emerging issues” (2015) *Journal of Financial Crime*.

This provides more power and strength to the offender to avoid legal proceeding and a low rate of convictions. Conventional Law Enforcement agencies are by and large designed for the control of individuals but not for the control of corporations. It is required to enact appropriate rules and laws and its proper implementation without any hindrance by any political interference or any high profile business community. The enforcement agencies should be provided with an independent authority to deal with the investigation process with adequate and proper training of various economic laws.

Another hindrance of poor conviction rate is the prosecutorial system in India. In Corporate Fraud matters where the public interest is involved and public money, State is the prosecutor and represented by the public prosecutor. It is clear from the fact that the Public Prosecutor is appointed by the Central or the State government. Appointing Authority of the whole prosecutorial system is the government. Hence, political interference in the course of investigation and trial always exists. The office of Attorney General and Advocate General is to give advice to the Centre and the State Government upon legal matters. Though the appointments are not purely of political nature but it is a fact that only a person who agrees with the broad policy of the government can discharge the function in the office satisfactorily.

Corporate Crimes has been treated differently by the courts in India. The traditional doctrine of criminal law sets the limit of criminal law and criminals. Due process doctrine of criminal justice system requires the State to prove the guilt of the accused beyond reasonable doubts. The need to prove mens rea is very difficult and complicated in corporate frauds. The trial court in India fails to determine the gravity of the offence committed in Corporate Frauds.

CONCLUSION

Corporate Frauds and abuse of position have been seen in many cases like Satyam Scam , PNB Scam , Enron case, Worldcon and recently Yes Bank Scam which have lost the organisation crores of money. The loss in human tern is incalculable. Despite, good corporate governance and numerous legislations and regulatory authorities corporate fraud is rampant in India . To keep a check on the prevention and conviction of Corporate offenders , numerous legislation , law commission reports and investigative agencies were introduced and allotted only to prevent the growing menace . But still the laws and implementation requires to be more stringent and proper . Companies Act , 2013 has been enacted incorporating Corporate fraud, establishment , role and function of NCLT and SFIO investigating agencies which the legal system and corporation to follow proper rules , standards and laws. But still then implementation plays a major role. Without proper and accurate investigation , the role of act becomes less responsive due to which the there is poor rate of conviction and recovery for corporate frauds.