

On the Reasonable Restriction in the Identification of Extortion Crime

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ABSTRACT

As a compound crime violating both property rights and citizens' personal rights, has the problem of over-generalization in judicial practice, which adversely affects the protection of citizens' legitimate rights and interests and the stability of social order. Starting from the constituent elements of extortion, this paper analyzes the tendency of expansion in the current identification process and its causes by combining typical cases in judicial practice, and explores the necessity and specific paths for reasonably restricting the scope of identification of this crime. The study holds that the reasonable restriction in the identification of extortion should be realized by strictly defining the connotation and extension of "threats and coercion", clarifying the identification standards of "the purpose of illegal possession", and distinguishing the boundary between the exercise of legitimate rights and extortion. This is to balance the punitive and protective functions of criminal law and safeguard judicial justice.

KEYWORDS

Extortion Crime; Identification Standards; Reasonable Restriction; Judicial Practice; Constituent Elements.

1. INTRODUCTION

With the development of social economy, property disputes and forms of right claims are becoming increasingly diversified, and the judicial determination of extortion crime is facing many challenges. In recent years, there have been cases in practice where some legitimate rights protection behaviors and improper handling methods of civil disputes have been identified as extortion, which not only infringed upon the legitimate rights and interests of the parties, but also triggered extensive social discussions on the boundary of criminal law application [1]. The generalization of the identification of extortion crime is essentially a deviation in the understanding of the constituent elements of the crime and the expansion of judicial application, which is contrary to the principle of modesty in criminal law. Therefore, studying the problem of reasonable restriction in the identification of extortion crime is of important theoretical and practical significance for standardizing judicial practice, protecting citizens' rights, and maintaining social fairness and justice.

2. MANIFESTATIONS AND CAUSES OF THE GENERALIZATION IN THE IDENTIFICATION OF EXTORTION CRIME

2.1. Specific Manifestations of Generalization in Identification

1) The identification of "threat and coercion" acts is too broad. In some cases, the act of a party putting forward property demands to the other party by means of publicly exposing illegal acts or reporting to relevant departments is simply identified as "threat and coercion". For example, after a consumer finds that a merchant has committed fraud, he asks for high compensation by threatening to expose it to the media. Some judicial organs directly identify such acts as threatening acts in the crime of extortion, ignoring the legitimate basis of consumers' rights protection.

2) In practice, the judgment on whether an actor has the "purpose of illegal possession" is not rigorous enough, and property demands based on legitimate claims, reasonable compensation and other legitimate reasons are often mistakenly identified as having the purpose of illegal possession. For example, in a debt dispute, a creditor uses some radical means to recover the debt from the debtor. Even if the fact of the debt is clear, he may still be identified as having the purpose of illegal possession and thus constitute the crime of extortion.

3) Confusing the boundary between the exercise of legitimate rights and extortion [2]. Some parties are identified as committing extortion because they adopt inappropriate methods in the process of safeguarding their legitimate rights and interests, such as asking for excessive compensation or using aggressive language. For example, a worker claims compensation from the employer due to work-related injury, and the amount of compensation claimed exceeds the legal standard. Some judicial organs convict the worker of extortion, ignoring the basis of the worker's legitimate rights and interests.

2.2. Causes of Generalization in Identification

1) The generality and ambiguity of legal provisions. China's criminal law stipulates the crime of extortion in a relatively principled way. Key terms such as "threat, coercion" and "relatively large amount" lack clear judicial interpretations, leading to judicial organs having great discretionary power in the application process, which is prone to understanding deviations [3].

2) Deviation in judicial concepts. Some judicial personnel have the concept of "maintaining stability first". When handling cases involving property disputes, they tend to take criminal punishment measures against the actor in order to resolve contradictions quickly, ignoring the accurate judgment of the nature of the act and the protection of the legitimate rights and interests of the parties [4].

3) Insufficient attention to the principle of modesty in criminal law [5]. The principle of modesty in criminal law requires restraint in the application of criminal law, and criminal law should be used only when other legal means cannot effectively adjust. However, in practice, some disputes that could have been resolved through civil and administrative means have been elevated to the criminal level, expanding the scope of application of the crime of extortion.

3. NECESSITY OF REASONABLE RESTRICTION IN THE IDENTIFICATION OF EXTORTION CRIME

3.1. Conforming to the Principle of Modesty in Criminal Law

The principle of modesty in criminal law is an important principle of modern criminal law, which requires that criminal law shall not arbitrarily interfere in social life and can only be applied when it is really necessary. The reasonable restriction in the identification of extortion crime can prevent criminal law from excessively interfering in citizens' daily life and economic exchanges, avoid the

abuse of criminal punishment power, and enable criminal law to play an appropriate role in maintaining social order.

3.2. Protecting Citizens' Legitimate Rights

Citizens have the right to safeguard their legitimate rights and interests, including claiming property rights and reporting illegal acts in a reasonable way. Reasonably narrowing the scope of identification of extortion crime can provide a clear legal boundary for citizens to exercise their rights properly, prevent citizens from being criminally prosecuted for improper ways of exercising their rights, and protect citizens' personal freedom and property rights.

3.3. Maintaining Judicial Justice and Authority

Judicial justice is the lifeline of judicial work, and the accurate identification of crimes is the basis for realizing judicial justice [6]. If the identification of extortion crime is too broad, it will lead to unjust, false and wrong cases and damage the credibility of judicial organs. Reasonably narrowing the scope of identification can improve the accuracy of judicial identification, ensure that those who are guilty are punished and those who are innocent are not prosecuted, and maintain judicial authority.

4. SPECIFIC PATHS FOR REASONABLE RESTRICTION IN THE IDENTIFICATION OF EXTORTION CRIME

4.1. Strictly Defining the Connotation and Extension of "Threat and Coercion" Acts

"Threat and coercion" are the core behavioral elements of the crime of extortion, and their identification directly affects the establishment of the crime [7]. They should be strictly defined from the following aspects:

1) Clarifying that the content of "threat and coercion" is illegal. The content of threat and coercion must be infringing upon the legitimate rights and interests of the other party, such as harming personal safety, destroying property, and exposing privacy. If the actor uses legitimate means to coerce, such as reporting the other party's illegal acts to relevant departments, even if the other party feels fear and delivers property, it should not be identified as "threat and coercion".

2) Restricting that the way of "threat and coercion" is mandatory. The act of threat and coercion must make the other party fall into fear and be forced to deliver property, that is, the act has the coerciveness enough to suppress the other party's resistance. Some minor verbal pressure, reasonable negotiation and communication and other non-mandatory acts should not be identified as "threat and coercion" in the crime of extortion.

4.2. Clarifying the Identification Standard of "Purpose of Illegal Possession"

The "purpose of illegal possession" is the subjective constituent element of the crime of extortion, which should be comprehensively judged by combining factors such as the actor's motivation, behavioral background and property source:

1) Examining whether the actor has a legitimate right basis. If the actor puts forward property demands based on legitimate creditor's rights, real rights, intellectual property rights, etc., it should generally not be identified as having the purpose of illegal possession. For example, a creditor who recovers debts within the scope prescribed by law should not be identified as having the purpose of illegal possession even if the method adopted is improper.

2) Analyzing whether the property demands put forward by the actor are reasonable. Although the amount of property demands cannot directly determine whether there is a purpose of illegal

possession, if the amount demanded is obviously beyond a reasonable range and there is no legitimate reason, it may become a reference factor for identifying the purpose of illegal possession. However, it should be noted that the purpose of illegal possession cannot be determined only by the excessive amount, and other circumstances should be comprehensively considered.

4.3. Distinguishing the Boundary between the Exercise of Legitimate Rights and Extortion Acts

The key to distinguishing the two lies in whether the actor has a legitimate right basis and whether the way of exercising rights exceeds the necessary limit:

1) Confirming the legality of the right basis. If the right claimed by the actor is clearly stipulated by law, such as the claim right of consumers and the claim right of labor remuneration of workers, the act of exercising the right is legitimate, and should not be identified as extortion even if there are defects in the way.

2) Judging whether the way of exercising rights is appropriate. The exercise of legitimate rights should adopt legal and reasonable ways and must not damage the legitimate rights and interests of others [8]. If an actor exercises his rights by means of violence, coercion, insult and other illegal ways and exceeds the necessary limit, he may constitute other crimes, but should not be simply identified as the crime of extortion. For example, a worker who uses violence to force the employer to pay wages may constitute the crime of intentional injury, etc., rather than the crime of extortion.

4.4. Improving Relevant Judicial Interpretations and Guiding Cases

The Supreme People's Court and the Supreme People's Procuratorate should promptly issue relevant judicial interpretations, clearly stipulate the constituent elements and identification standards of the crime of extortion, and unify the judicial standards. At the same time, typical guiding cases should be released to provide specific guidance for judicial practice, help judicial personnel accurately grasp the identification boundary of the crime, and avoid generalization in identification.

5. CONCLUSION

The reasonable restriction in the identification of extortion crime is an inevitable requirement for standardizing judicial practice, protecting citizens' rights, and maintaining social fairness and justice. At present, the generalization problem in the identification of this crime mainly stems from the ambiguity of legal provisions, deviations in judicial concepts and the neglect of the principle of modesty in criminal law. The reasonable restriction in the identification of extortion crime can be realized by strictly defining the connotation and extension of the act of "threat and coercion", clarifying the identification standard of "the purpose of illegal possession", distinguishing the boundary between the exercise of legitimate rights and the act of extortion, and improving relevant judicial interpretations and guiding cases. This will enable criminal law to strike a balance between cracking down on crimes and protecting human rights, and promote social harmony and stability.

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