

Section 391 - Dacoity

Dacoity is an aggravated form of robbery which is committed by five or more than five persons. These persons should be involved in either committing. Attempting to commit, or in aiding the commission of a robbery.

Essential ingredients

There should be Five or more than five persons;

These persons should conjointly commit or attempt to commit robbery;

They should have dishonest intentions.

In the case of Raj Kumar @ Raju v State of Uttaranchal AIR 2008 SCC 709, the Supreme Court has reiterated that for the commission of the offence of dacoity a minimum of five persons is an essential ingredient of dacoity and s 396 does not come into play if persons

convicted for committing dacoity happened to be less than five.

In the case of Ram Baran vs. Emperor 1983 15 ALL 299, a large number of people under the influence of religious sentiments attacked and deprived a group of Muslim people of their cattle. The court held that it was dacoity as it was committed by 5 and more people.

Section 392 - Punishment for robbery
Rigorous Imprisonment up to 10 years and also fine If robbery committed at night (between sunset and sunrise) on the highway-Rigorous Imprisonment may extend to 14years. and also fine.

Section 393 - Attempt to commit robbery
· This section punishes any person who attempts to commit robbery with rigorous imprisonment whose term can be extended to 7 years and he or she will also be liable to pay the fine.

Section 394 - Voluntarily causing hurt in committing robbery

If a person causes hurt during committing robbery or attempt to commit robbery

The person causing hurt and other persons involved in committing robbery shall be punishable with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Section 394 is a special provision, which is applicable to cases where the offender has actually caused hurt to the victim for the purpose of committing robbery or in an attempt to commit robbery. The Punishment provided for under s 394 is more severe than that provided under the first part of s 392.

Section 395 - Punishment for dacoity

· Life imprisonment or rigorous imprisonment which may extend to 10yrs and also fine.

Dacoity is considered a very grave and serious crime and hence, courts have held that in cases of dacoity, a deterrent sentence is called for. In awarding punishment for an offence under this section, two things are to be considered: (i) having regard to the gravity of the offence committed, the punishment that each individual deserves; and (ii) on the facts and circumstances of a particular case, whether an unusually heavy sentence is required to protect the interests of the public at large by acting as a deterrent to others.

Section 396 - Dacoity with murder

- If a murder is committed during dacoity, all the persons involved shall be punished with death, or imprisonment for life or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

It is not necessary that murder should be committed in the presence of all. It is not even necessary that murder should have been within the previous contemplation of

the perpetrators of the crime. The essence of an offence under this section is murder committed in the commission of dacoity.

However, if the dacoits were forced to retreat without collecting any booty, the offence of dacoity would be completed as soon as they left the house of occurrence and took to their heels. And if one of the dacoits kill someone of the persons chasing them, then only the actual murderer will be liable under s 302 of IPC and others will be liable under s395 of IPC. *Shyam Behari v State of Uttar Pradesh* AIR 1957 SC 320

In *Laliya v State of Rajasthan* AIR 1967 Raj 134, for conviction under this section court must pay attention to these rules:

- whether the dacoits retreated without plunder and the murder was committed while retreating
- the interval between the attempt of dacoity and the commission of the murder

- the distance between the places where the attempt at dacoity was committed and the murder was committed
- whether the dacoits abandoned all the booty and the lapse of an interval between the abandonment of the booty and the commission of the murder

Section 397 - Robbery or dacoity, with attempt to cause death or grievous hurt

- If during the commission of robbery or dacoity, the offender uses a deadly weapon, causes or attempts to cause death or grievous hurt
- Shall be punished for not less than 7 years.

The Expression 'the offender' occurring in this section pertains to the actual offender. It doesn't include all persons who participate in robbery or dacoity. The liability to enhanced punishment is limited to the offender who actually uses the weapon himself and causes grievous hurt and not to others.

The words "uses any deadly weapon" in this section includes those cases where the weapon carried by the offender was within the vision of the victim so as to be capable of creating terror in his mind. It is not necessary to show further any hurt caused by the use of the weapon. For example, where the accused carried a revolver open to the view of the victims, it is sufficient to use of a deadly weapon to terrorize them within the meaning of this section and no other overt act as firing is necessary to apply this section

Ashfaq v State Govt. of NCT of Delhi, (2004)
SCC 116

Chandra Nath Bagchi v Nabadip Chandra
Dutt (1931) Luck 543

Section - 398 Attempt to commit robbery or dacoity when armed with deadly weapon

· Punishment for attempt to commit robbery or dacoity with a deadly weapon is

Imprisonment of not less than seven years

Section - 399 Making preparation to commit dacoity
Punishment for any preparation to commit dacoity is

rigorous imprisonment for a term which may extend to ten years, and also fine

Ordinary, preparation to commit an offence is not punishable but dacoity is one of the few exceptions where preparation is punishable. Preparation is devising or arranging means necessary for the commission of an offence.

The preparation consists in devising or arranging the means or measures necessary for the commission of the offence. It differs widely from an attempt which is the direct movement towards the commission after preparations are made. The dividing line between mere preparation and an attempt is sometimes thin and has to be decided on the

facts of each case. There is a greater degree of determination in an attempt as compared with preparation.

Section - 400 Punishment for belonging to gang of dacoits

Whoever belongs to a gang of persons for the purpose of committing dacoity shall be punished with

Imprisonment for life or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

The expression 'belong' implies something more than casual association with the object of committing dacoity by a person who was ordinarily living by honest means. Its object is to break up gangs of dacoits by punishing persons associated for the purpose of committing dacoity.

The mere fact that a person lives with men who are dacoits is not sufficient to prove that he belonged to a gang of persons who commit dacoity within the meaning of this section

unless it is proved that he himself associated with them for committing dacoity.

Bhima Shaw, (1956) Cut 195

Sharaf Shah Khan, AIR 1963 AP 314

Section - 401 Punishment for belonging to gang of thieves

Punishment for belonging to a gang of thieves or robbers is

Rigorous imprisonment for a term which may extend to seven years, and also fine.

Section - 402 Assembling for purpose of committing dacoity

Punishment for assembling to commit dacoity is Imprisonment for a term which may extend to seven years, and shall also be liable to fine.

It is not necessary to take any step for dacoity mere unlawful assembly with a common object of dacoity is sufficient for punishment under this section.

In *Chaturi Yadav v State of Bihar* AIR 1979 SC 1412, the accused had assembled at a lonely spot in the school premises when they were detected by the patrol squad. One of the accused was found to be in possession of a gun and a live cartridge, and others had merely one live cartridge in their pockets. There was absolutely no evidence to establish that the accused had assembled there for the purpose of committing dacoity. In the absence of such evidence, it was held that since one of the ingredients of the offence had not been established by the prosecution, no offence under this section was made out.