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## ROBBERY AND DACOITY

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### **ABSTRACT**

A crime is defined as any action taken, whether alone or in a group, with the purpose of obtaining money. Still, a significant part of the economy is crime. India is not an outlier in a similar manner. Numerous crimes have also always been committed in society, some of which were prevalent during the earlier centuries of Indian civilization. The current condition does contain more very serious kinds because of numerous social and economic issues, political intervention techniques, innovation, and other things. Complete defence against them is an unrealistic goal that hasn't been reached.

The Indian Penal Code 1860 is a codified law in India that addresses all forms of crime, regardless of their nature or location of commission. In Chapter XVII of this Code, the most common crimes such as "Extortion, Theft, Robbery & Dacoity" are covered. All other offences are non-compoundable and differ only slightly from theft, which can only be compounded by the property owner. We'll examine some fundamental ideas and court rulings relating to all of these criminal charges in this blog.

### **ROBBERY**

We've all heard the term "robbery" in class; in simple terms, it's when someone takes something important from another person using force or violence, or even the threat of force or violence. What distinguishes robbery from simple theft is that the robber takes something from the victim's "person or presence," which means that the victim is present at the time of the robbery and the robber uses or threatens to use force or violence to steal, such as knocking someone down or pulling something out of their hands.

**Robbery's Essential Elements:**

According to Section 390 of the Indian Penal Code, 1860, all robberies involve either extortion or theft. Robbery is defined by the Black Law dictionary<sup>i</sup>

Causing Death, Harm, or Inappropriate Restraint or Fear.

When stealing is committed as a robbery or when extortion is committed as a robbery, it might result in death, injury, wrongful restraint, or fear. These two are illustrated and discussed below.

**When theft becomes robbery**

Theft is a robbery in which to steal, the perpetrator voluntarily causes or attempts to cause any person to be killed, unjustly detained, causing pain or causing immediate death, improper self-restraint or immediate injury.

When the following elements are met, theft might be classified as a robbery:

- 1- When the criminal knowingly attempts to kill someone;
- 2- unjust restraint;
- 3- the fear of dying suddenly;
- 4- inappropriate constraint in the moment;
- 5 - immediate pain.

And the following actions are carried out:

- 1st, while committing the robbery,
- 2 - While transporting items obtained by theft, or
- 3 - While attempting to remove property from the premises.

For example, if A holds B down and steals B's money from his clothes without B's permission. A has committed stealing, and by doing so, he has voluntarily placed B under unlawful restriction. As a result, A is guilty of robbery.

**When extortion becomes robbery**

When the person committing extortion puts the other person in fear and commits extortion by putting that person in fear of death, instant wrongful restraint to that person or to another person, and by doing so induces the person so put in fear to deliver the thing that has been extorted, extortion becomes robbery.

For eg. - Mr X approaches Mr Y on the highway, brandishes a gun, and demands Mr. Y's wallet. As a result, Y gives over his wallet. Mr X has extorted the wallet from Mr Y, putting Mr Y in fear of immediate harm or death, and committing the extortion while in his presence. As a result, Mr X has committed a robbery.

**ROBBERY IS PUNISHABLE BY VARIOUS MEANS**

The Indian Penal Code, enacted in 1860, covers all types of criminal penalties. The penalty for robbery is defined in Section 392 of this code. This provision states that anyone who commits robbery is subject to imprisonment for up to ten years, as well as a fine.

Furthermore, this provision states that if a person conducts a highway robbery, they will be sentenced to 14 (fourteen) years imprisonment. An attempt to commit robbery is punishable under Section 393 of the Indian Penal Code. This carries a penalty of up to 7 years in jail as well as a monetary fine.

Being a member of a gang of robbers comes with a big price. The punishment for being a member of a robbery group is outlined in Section 412 of the Indian Penal Code. This section applies to anyone who keeps or receives stolen property, knowing that it was obtained via the conduct of a dacoity. It further states that when a person gets goods from another person, he or she knows or has reason to believe that the property belongs to a group of dacoits and that the property has been plundered or stolen.

For all of these criminals, the penalty is life in prison or a rigours term that can be extended to ten years. This clause punishes anyone who accepts property obtained through the commission of a crime.

**DACOITY**

when five or more people are involved or trying to rob or where the total number of people involved in or attempted robbery, as well as the people present and to assist such a commission or effort, including five or more, every person who does so, attempts or to help, it is said to do Dacoity. Dacoity is nothing but a robbery of five or more people. The total number of people involved at any level, whether senior or assisted, will be five. They should be involved in making, trying to do or assisting in the commission of a robbery.

**Essentials of Dacoity**

- (i) five or more persons must participate
- (ii) that act must be a robbery or attempted robbery.
- (iii) Five persons must be persons committing or attempting robbery themselves

to rob those who present and assist senior executives in commissions or attempts to do so robbery. Om Prakash vs State of rajasthan<sup>ii</sup> The Supreme Court has ruled on the whereabouts of Dacoity of the five summoned and two of them released. The remaining three cannot be convicted Dacoity.

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**PUNISHMENT FOR DACOITY**

The penalty for dacoity is defined under Section 395 of the Indian Penal Code, 1860. This section states that a person who commits adultery shall be liable to imprisonment, or to imprisonment for a term not exceeding ten years, and shall be liable to a fine. This case is obvious, it has no bail, and it naturally does not follow through.

The state is competing with Sadhu Singh and Ors in this case, with four kurda Singhs involved in dacoity. They were all armed with deadly weapons, such as guns and pistols. They rob a house in gharsram. They damaged Gharsiram, jugalkishore, Sandal and Jugalkisore. The coaxes, in this case, tried to take a one-man wristwatch and shawl but as they were rural people the coaxes could not take anything. As the dacoit began to run on the residents, they received a hot chase from them and the dacoit also fired fire. As a result,

Dharma, one of the residents died but the villagers took one of the dacoits. In this case, the dacoit is charged under Section 395 of the Indian Penal Code.

Case law– Abdul Kalam vs. the State of Rajasthan

Fact: At night Vishwas and his wife, Renu Jain, were sleeping in their house when five men entered the house and arrested their chatrabhuj, who was sleeping in the basement. Afterwards, the defendant tied up Vishwas Jain's mouth, legs and hands, tied them inside the bathroom and threatened them with a gun and a knife. Defendant misappropriated gold and silver ornaments and coins and cash.

The criminals stayed in the house for about an hour. Vishwas managed to get out of the bathroom window and called Malviya Nagar (Jaipur) at the police station. After receiving the information, a police team arrived at the complainant's home. Vishwas submitted a written report, in which case the offence was registered under Section 395 of the IPC.

### **AGGRAVATED DACOITY**

The worst form of dacoity is defined under Section 396 of the Indian Penal Code, 1860. Under Section 396 the worst form is defined as drunkenness and murder. It says that if any one of the five or more persons, who commits the same sin, commits murder by committing such an evil, each one of those people will be put to death and fined.

The ingredients for Section 396 are:

- 1) The case of dacoity must be made by the co-defendants;
- 2) Killing should be done during the dacoity commission.

If any of the five or more robbers kill while committing a crime at the time, each one of them will be guilty of murder even if some of them did not participate in the murder. Under Section 396 of the IPC, it is not necessary to prove that the murder was committed by one person or by all. It is also not necessary to prove the general purpose. The prosecutor is only required to prove that the murder was committed while committing dacoity. If the

prosecution proves that the murder was committed while committing a crime, all members will be punished under Section 396 of the IPC.

If the criminals run and chase them if one of the dacoits kills someone then other members of the group will not be prosecuted under Section 396 of the IPC. Whether a murder was committed as part of a dacoity or not relies entirely on the circumstances at the time, as was stated in one of the key decisions of *Laliya v. in the state of Rajasthan*.

*Ashfaq vs State*<sup>iii</sup>: The Supreme Court declared in *Ashfaq vs. State* that a weapon with which the criminal is armed is a dangerous weapon within the meaning of this section if it is visible to the victim and capable of instilling panic in the victim's mind. For the purposes of section 397 IPC, it is also sufficient to satisfy the word "uses."

The court ruled that these points must be considered before a decision can be made. These points are:

- 1) Whether the dacoits retreat or not and the execution is done while retreating or not?
- 2) What is the time interval between assassination and stupidity?
- 3) What is the distance between the places where they try to kill and try to seduce?

In one of the cases namely *Shyam Behari v. State of Uttar Pradesh*<sup>iv</sup>, a dacoit killed one of the victims, who was holding a criminal friend in an attempt to dacoit. Because any killing committed by a dacoit during the fight would be considered murder, the criminal was found guilty under Section 396 of the IPC.

### **DACOITY OFFENCES**

Before committing any crime, the role plays a very important role in it. Under criminal law, the intent is known to *Mens Rea*. *Mens rea* means you have a mental illness. In all criminal cases, there should be *Mens rea* on the offender's side. Put simply, it means that there must be a purpose to committing a crime. The term "Intent" is not explicitly stated under the Indian Penal Code, 1860 But under Article 34 of the IPC, we speak of the same purpose.

Section 34 of the IPC describes the actions of a few people in furthering the same purpose. The passage states that "when a crime is committed by several persons in order to further the same purpose for all, every such person is liable in the same manner as if he had committed it alone."

This section requires the purpose of a crime or information and the action must be taken by more than one person. Everyone who joins the action with knowledge of the consequences, should all be prosecuted under this section.

### **THE DIFFERENCE BETWEEN ROBBERY AND EXTORTION**

Robbery is a common crime which is a serious form of theft or robbery, defined under section 390 of the IPC. Dacoity is a form of robbery and is defined under Section 391 of the IPC. Dacoity requires five or more people while robbery may include only one which makes dacoity a more serious crime in nature compared to robbery, as the addition of more people can increase damage and injury, so the punishment varies accordingly.

The penalty for robbery is not less than three years, not more than 10 years and must also pay a fine.

‘Highway’ eligibility: Highway robbery may result in an additional 14 years imprisonment but the fact that dacoity is committed on a freeway will not change position or punishment.

The robbery is obvious, there is no bail, no objection and can be tried by a first-grade magistrate while the dacoity is known, has no bail, no retaliation and can be tried by a court.

With regard to the position of Abettors, in robbery, taxpayers are liable for independence while existing dacoity representatives who assist in crimes committed are also numbered.

### **CONCLUSION**

The crime of robbery is a part of Dacoity. Both are intertwined; whereas robbery instils fear and poses a threat, quality plots murder and plunders another's belongings, plundering jewellery and money. There have been instances where Dacoity has resulted in rape. India's penal system isn't flawless, and it needs to be adjusted as soon as feasible. In the beginning, there were fewer crimes, but the punishment had a significant deterrent effect. Because the punishment for robbery and dacoity is less severe under the Indian Penal Code, only young people will be scrutinized. We believe that a child or an adult who commits robbery or even dacoity should be punished based on the nature of the crime, not their age.<sup>v</sup>

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<sup>i</sup>Robbery is defined in Black Law Dictionary as "the felonious act of removing another's personal property from him or her immediate presence without his will, performed via the use of force and terror, with the goal of permanently depriving the owner of the thing."

<sup>ii</sup> 1988 (1) WLN 510

<sup>iii</sup>2011 Latest Caselaw 574 SC

<sup>iv</sup>Criminal Appeal No. 72 of 1956

<sup>v</sup><https://lawsstudy.com/theft-extortion-robbery-dacoity-under-ipc-1860/>



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